

EXHIBIT 8

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA
CASE No.12-034123(07)

P&S ASSOCIATES, GENERAL PARTNERSHIP,
a Florida limited partnership, et al.,

Plaintiffs,

-vs-

MICHAEL D. SULLIVAN, et al.,

Defendants.

DEPOSITION OF MICHAEL BIENES
VIDEOTAPED

VOLUME I
PAGES 1 - 83

Thursday, September 10, 2015
10:03 a.m. - 12:08 p.m.

Berger Singerman LLP
One Town Center Road
Suite 301
Boca Raton, Florida 33486

Reported By:
Gabrielle Cardarelli, FPR, RPR
Notary Public, State of Florida
Esquire Deposition Services
Job #22282

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On behalf of the Plaintiff:

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On behalf of the Defendant (Michael Bienes):

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On behalf of the Defendant (Frank Avellino):

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ALSO PRESENT:

BRIAN TERRINONI - VIDEOGRAPHER
PHIL VON KAHLE
FRANK AVELLINO

I N D E X

WITNESS: DIRECT CROSS REDIRECT RECROSS

MICHAEL BIENES

BY MR. SAMUELS 5

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P R O C E E D I N G S

Deposition taken before Gabrielle Cardarelli,
Registered Professional Reporter and Notary Public in
and for the State of Florida at Large, in the above
cause.

VIDEOGRAPHER: Today's date is
September 10th, 2015. The time on the video
monitor is 10:03 a.m. This is the video recorded
deposition of Michael Bienes, in the matter of P&S
Associates, et al., versus Michael D. Sullivan, et
al.

This deposition is being conducted at Berger
Singerman, LLP, 350 East Las Olas Boulevard, Suite
1000, Fort Lauderdale, Florida 33301. The court
reporter is Gabby Cardarelli and the videographer
is Brian Terrinoni. Will counsel please identify
themselves for the record.

MR. SAMUELS: Leonard Samuels of Berger
Singerman on behalf of the plaintiffs, S&P, P&S and
Phil Von Kahle. With me is Steve Weber, Tom
Zeichman and Phil Von Kahle.

MR. ETRA: Jonathan Etra of Broad and Cassel,
on behalf of Mr. Bienes.

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1 MR. WOODFIELD: Gary Woodfield, on behalf of
2 Frank Avellino.
3 COURT REPORTER: Please raise your right hand.
4 (Oath administered.)
5 THE WITNESS: I do.
6 COURT REPORTER: Thank you.
7 - - -
8 Thereupon,
9 (MICHAEL BIENES)
10 having been first duly sworn or affirmed, was examined
11 and testified as follows:
12 DIRECT EXAMINATION
13 BY MR. SAMUELS:
14 Q Good morning. My name is Leonard Samuels. As
15 I announced, I'm counsel for the plaintiffs in this
16 matter. Can you please state your name?
17 A Michael Bienes.
18 Q Have you ever had your deposition taken?
19 A I think so, yes.
20 Q And when do you think you had your deposition
21 taken last?
22 A Few years ago.
23 Q Okay. And what matter was that in?
24 A Irving Picard.
25 Q Irving Picard?

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1 A Yeah.
2 Q In a lawsuit brought against you and others?
3 A Yes.
4 Q Okay. Okay. I want to -- I want to go over
5 some of the ground rules with you here today and how
6 this is going to occur. I'm going to be asking you a
7 series of questions. You've been placed under oath, so
8 you're required to testify truthfully as though you were
9 in front of a judge and a jury today, okay?
10 A Yes, sir.
11 Q If you don't understand any questions, please
12 let me know and I will rephrase the questions to
13 hopefully make them in a manner that you will understand
14 them, okay?
15 A Yes, sir.
16 Q And please continue to answer verbally so the
17 court reporter can take everything down, all right?
18 A Yes.
19 Q I was handed by counsel before we started
20 today a list of various surgeries you've had, it looks
21 like since 1980, and some medications that you are on.
22 I'm going to name a couple of the medications, and if
23 you can answer me if you're still on them today because
24 it's not clear.
25 MR. SAMUELS: Is he -- is he still on these?

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1 MR. ETRA: I don't know. Feel free to ask
2 him.
3 MR. SAMUELS: Okay.
4 MR. ETRA: Can you make that an exhibit
5 because I don't have a copy?
6 MR. SAMUELS: Sure. I'll mark this as Exhibit
7 Number 29.
8 MR. ETRA: It will be part of the record,
9 thank you.
10 MR. SAMUELS: Sure. That's fine.
11 (Plaintiffs' Exhibit No. 29 was marked for
12 identification.)
13 BY MR. SAMUELS:
14 Q So I'm just going to ask you about a couple of
15 the medications listed here and you can let me know if
16 you're still taking these medications: Furosemide?
17 A Yes.
18 Q Pot chloride?
19 A Yes.
20 Q Amlodipine?
21 A Yes.
22 Q Levothyroxin?
23 A Yes.
24 Q Lisinopril?
25 A Yes.

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1 Q Losartin?
2 A Yes.
3 Q Atorvastatin?
4 A Yes.
5 Q Xarelto?
6 A Yes.
7 Q Multaq?
8 A Yes.
9 Q Magnesium oxide?
10 A Yes.
11 Q Lupron?
12 A Yes.
13 Q Prilosec?
14 A Yes.
15 Q Equate?
16 A Yes.
17 Q Are you on any other medications?
18 A Prescription, no.
19 Q How about nonprescription meds?
20 A When needed.
21 Q And you're not -- are you currently on any of
22 those?
23 A No.
24 Q Okay. I'm going to hand this to the court
25 reporter to mark as Exhibit 29, and we'll make copies

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1 later for everybody.
2 Of any of those medications listed, do you
3 believe any of them will impact your ability to answer
4 questions truthfully today?
5 A To answer?
6 Q Yes, to answer truthfully.
7 A No. Truthfully, definitely not.
8 Q Not a problem. Okay. And do you believe any
9 of those medications may impact your ability to recall
10 events?
11 A Yes.
12 Q And which of those medications do you think
13 might negatively impact your ability to recall events?
14 And if you want to look at the list in front of you,
15 it's not a trick question.
16 A Several.
17 Q Several?
18 A Several.
19 Q So let's go to -- let's go here, to the bottom
20 and if you can tell me which of these medications you
21 think might impact your ability to recall events, please
22 note that.
23 A Multaq.
24 Q Okay.
25 A Lupron -- I'm not a doctor. I don't know.

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1 Q I understand that.
2 A They will all have side effects.
3 Q Okay. I understand you're not a doctor. And
4 like I said, I'm not trying to trip you up. It's just
5 if you know if any of these might affect your ability to
6 recall events. That's all you can do is tell me what
7 you know.
8 A That's really what I know.
9 Q That's your belief. Okay.
10 When was your deposition taken in the Picard
11 matter?
12 A Couple of years ago.
13 Q And -- okay. And do you know if that would
14 have been in an -- an examination, a 2004 examination or
15 something like that?
16 A 2004?
17 Q Was it in a court proceeding? Were you in a
18 courtroom?
19 A No.
20 Q It was a private deposition?
21 A Yes.
22 Q Okay. And were you represented by counsel?
23 A By Mr. Etra.
24 Q Okay. When else do you recall being deposed?
25 A I don't.

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1 Q Okay.
2 A I don't.
3 Q What is your residential address?
4 A 3200 Port Royal Drive, Fort Lauderdale.
5 Q And how long have you resided at Port Royal
6 Drive?
7 A Since 2009.
8 Q And where did you live before that?
9 A Before that, 141 Bay Colony Drive.
10 Q Also in Fort Lauderdale?
11 A Yes.
12 Q And how long did you reside there?
13 A I would have to say 99 -- over 20 years.
14 Q All right. And when did you first move to
15 South Florida?
16 A In the early '70s.
17 Q Okay. What is your highest level of
18 education?
19 A I have an MBA.
20 Q And from what institution did you receive your
21 MBA, and in what year?
22 A Baruch College. I think 1966 -- '5 or '6.
23 Q Okay. And that's in New York City?
24 A Yes, sir.
25 Q Okay. And what did you do after you got your

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1 MBA for work?
2 A I was still employed by the Internal Revenue
3 Service.
4 Q And did you begin working for the IRS after
5 college?
6 A No.
7 Q Okay. When did you start working at the IRS?
8 A 1960.
9 Q Okay. And when did you graduate from college
10 and with what degree and where?
11 A 1958, from New York University. I received a
12 bachelor's of science.
13 Q Do you hold any professional licenses?
14 A I did.
15 Q And what professional license did you hold?
16 A Certified public accountant.
17 Q And where did you receive your CPA -- what
18 state were you a CPA in?
19 A New York.
20 Q And when did you become a CPA?
21 A I think 19 -- I -- '69.
22 Q Okay. Do you have any other licenses, other
23 than a CPA in New York?
24 A No, sir, not to my knowledge.
25 Q And did there come a point in time where you

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1 either relinquished it, it was taken away from you or
2 you just quit paying dues? Or what happened?
3 A I -- I believe, in the early '80s, I placed my
4 license into inactive status. Inactive.
5 Q And has it remained inactive since that time?
6 A Yes, sir.
7 Q And what caused you to place it in inactive
8 status?
9 A Did not need it.
10 Q Okay. Have you ever -- let me just backtrack
11 a little and ask you a few questions about your
12 representation. Are you represented by counsel today?
13 A Yes.
14 Q And who is that?
15 A Mr. Jonathan Etra.
16 Q Okay. And have you been paying the legal fees
17 of your counsel or has somebody been paying them on your
18 behalf?
19 MR. ETRA: I have a motion for protective
20 order on his finances, so if you just would ask him
21 if someone else is paying on his behalf, that's
22 fine.
23 MR. SAMUELS: What do you mean by a motion for
24 protective order? You filed something?
25 MR. ETRA: Well, I didn't file anything. I

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1 A Yes, sir.
2 Q So neither Mr. Avellino or Mr. Sullivan or any
3 third party are paying legal fees for you in this
4 matter?
5 A No.
6 Q Okay. When did you first meet Mr. Frank
7 Avellino?
8 A Either at the end of 1967 or the beginning of
9 '68.
10 Q And what were the circumstances in your
11 meeting Mr. Avellino?
12 A You mean, how did I meet him?
13 Q Yeah, how did you meet him.
14 A Okay. I received a call from an accountant
15 that I knew and that knew me from the IRS, and he asked
16 me, "Did you ever hear of a firm called Alpern &
17 Heller?"
18 I said, "no."
19 He said, "Heller, who I know, just died
20 suddenly and his surviving partner is looking for a tax
21 man. This might be an opportunity for you." That's
22 how -- I made a call and I went.
23 Q So you then called -- was the firm then known
24 as Alpern & Heller?
25 A Yes.

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1 didn't know you were going to ask. I'm making an
2 oral application.
3 MR. SAMUELS: An oral application for
4 protective order? So are you -- as to that
5 particular question, are you going to allow that
6 or --
7 MR. ETRA: As I -- as I -- as I'm thinking it
8 through -- let me have the question back.
9 (A portion of the record read by reporter.)
10 MR. ETRA: The status of whether or not he
11 owes money to his law firm is irrelevant. If you
12 want to ask him if someone else is paying his fees,
13 I will -- I -- I don't have a motion for that.
14 MR. SAMUELS: My -- that was kind of what I
15 was asking. Were you paying --
16 MR. ETRA: It's probably what you intended to
17 ask.
18 MR. SAMUELS: I'll rephrase it.
19 MR. ETRA: Thank you.
20 BY MR. SAMUELS:
21 Q Are you paying your legal fees in this matter
22 or is someone paying them on your behalf?
23 A We are paying them.
24 Q You are paying your own legal fees? You're
25 paying your lawyers?

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1 Q Okay. And was Mr. Avellino employed by Alpern
2 & Heller?
3 A I believe so, yes.
4 Q And did you interview with Mr. Avellino?
5 A No.
6 Q Okay. And were you hired into Alpern &
7 Heller?
8 A Yes.
9 Q Okay. And were you hired as a tax accountant?
10 A More or less, yes.
11 Q Okay. And what else were you doing at Alpern
12 & Heller when you joined, other than tax work?
13 A Very little else.
14 Q Okay. And did Alpern & Heller then become
15 Alpern & Avellino?
16 A I'm not sure.
17 Q Okay. Does the firm name Alpern & Avellino
18 sound familiar to you?
19 A No.
20 Q Okay. Do you recall Mr. Avellino becoming a
21 named partner at the -- with Mr. Alpern at the firm,
22 prior to your having your name on the door?
23 A No.
24 Q Okay. And was Alpern & Avellino investing in
25 Bernard Madoff, at that time when you joined?

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1 A I wouldn't know.
2 Q And by the way, Mr. Madoff had an investment
3 firm, Bernardo Madoff Investment Services, LLC. Are you
4 familiar with that?
5 A Not all the things after his name.
6 Q Okay. So today, I may be asking you
7 questions, as you heard yesterday at Mr. Avellino's
8 deposition, about investing in Madoff. So when I talk
9 about investing in Madoff, you understand that to mean
10 Bernie Madoff or whatever firm he was operating under?
11 Is that okay?
12 A Yes.
13 Q Okay. How did you first meet Mr. Madoff?
14 A I went to his office downtown and there I met
15 him.
16 Q And what caused you to go to his office?
17 A I'm sorry. I can't recollect.
18 Q That's quite all right. Did Alpern -- did the
19 firm that you went to work for, Alpern & Heller, did
20 that firm eventually, at some point in time, become
21 Avellino & Bienes?
22 A Yes.
23 Q Okay. And do you remember when it became
24 Avellino & Bienes?
25 A Not exactly. Sometime in the '70s.

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1 Q Okay. And so, at that point in time, you and
2 Mr. Avellino were the owners of the accounting firm
3 Avellino & Bienes?
4 A Yes.
5 Q And were you -- was Avellino & Bienes
6 providing accounting services when it was first formed?
7 A We were a CPA firm.
8 Q Okay. And were you providing services other
9 than accounting services?
10 MR. ETRA: Objection. Who's the "you"?
11 MR. SAMUELS: Mr. Bienes.
12 MR. ETRA: Thank you.
13 THE WITNESS: I was providing tax services.
14 BY MR. SAMUELS:
15 Q Was the firm Avellino & Bienes providing
16 services, aside from accounting services?
17 A No.
18 Q Okay. At any point in time, did the firm
19 Avellino & Bienes begin investing money with Madoff?
20 A Yes.
21 Q Do you recall when that first occurred, either
22 with Avellino & Bienes or the predecessor firm, Alpern &
23 Heller?
24 A I don't really remember.
25 Q Okay. Do you know how it came about that

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1 Avellino & Bienes began investing with Madoff? Like
2 what were the circumstances? Whose idea was it? How
3 did it come about?
4 A It was there. I don't know.
5 Q It was there, so there were investments being
6 made in Madoff before you joined?
7 A I don't know that.
8 Q Okay. Do you remember, in the 1970s, the firm
9 investing money with Bernie Madoff?
10 A Do I remember, in the 1970s --
11 Q Do you recall, in the 1970s, the accounting
12 firm investing money with Bernie Madoff?
13 MR. ETRA: Objection to form.
14 THE WITNESS: I recall a -- an account. They
15 were connected in some way. I don't know.
16 BY MR. SAMUELS:
17 Q Okay. At some point in time, did you
18 personally begin having your clients invest with Madoff,
19 clients, friends or family members?
20 A My -- I -- it was the firm's clients.
21 Q Okay.
22 A And the question?
23 Q Yeah. When you were working there, do you
24 remember having any of your friends, clients or family
25 members begin investing -- investing with Bernie Madoff?

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1 A No. Not that I can recollect.
2 Q So you have in front of you exhibits that were
3 marked in the deposition yesterday. So I'm going to be
4 referring to some of those from time to time. They're
5 in order right now. So I'd like to start by showing you
6 what's been marked as exhibit -- exhibit -- let's start
7 with exhibit -- let's start with Exhibit 2.
8 Sir, this is a letter on Avellino & Bienes
9 letterhead, and it's signed by Lola Kurland. Do you
10 know who Lola Kurland is?
11 A Yes.
12 Q And who is Lola Kurland?
13 A She was the secretary and typist for the
14 accounting firm.
15 Q Of Avellino & Bienes?
16 A Yes, sir.
17 Q Okay. So here's a letter she wrote, and I
18 want to go through some of it with you, okay? And the
19 date of this letter is August 7th, 1991.
20 In the second paragraph -- or the first
21 paragraph, it says: "What we do at Avellino & Bienes is
22 to accommodate relatives, friends and former clients
23 that we serviced when we were certified public
24 accountants." And then it says -- excuse me --
25 "Avellino & Bienes invests in one particular Wall Street

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1 broker, the same company we first started doing business
2 with over 25 years ago, who buys and sells stocks and
3 bonds in the name of Avellino & Bienes." So let's stop
4 there for a moment.

5 So do you recall Avellino -- so Avellino &
6 Bienes, according to Lola, is investing in "one
7 particular Wall Street broker, who buys and sells stocks
8 and bonds in the name of Avellino & Bienes." Is she
9 referring to Madoff as the broker who Avellino & Bienes
10 was investing with?

11 MR. ETRA: Objection.

12 THE WITNESS: I don't know. Excuse me.

13 BY MR. SAMUELS:

14 Q You don't know who she's referring to?

15 A I didn't say that.

16 Q Okay.

17 A You asked me what was in her mind.

18 Q I did not ask you what was in her mind.

19 A Please repeat the question.

20 Q Yes. I'm asking you, this -- this is a letter
21 on company letterhead, okay, and this indicates that
22 "Avellino & Bienes invests with one particular Wall
23 Street broker, the same company that we first started
24 doing business with over 25 years ago, who buys and
25 sells stocks and bonds in the name of Avellino &

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1 BY MR. SAMUELS:

2 Q Okay. What services was Avellino & Bienes
3 providing, in 1991, when it discontinued providing
4 services as certified public accountants?

5 A We were handling investors.

6 Q Okay. So I understand how this worked, and
7 correct me if I'm wrong, was Avellino & Bienes working
8 with relatives, friends, and former clients to have them
9 loan money to Avellino & Bienes, at which time Avellino
10 & Bienes would provide promissory notes with a
11 guaranteed rate of return to those people?

12 MR. ETRA: Objection.

13 THE WITNESS: You know, these are Lola's
14 words, not mine.

15 BY MR. SAMUELS:

16 Q I'm asking you what you understand of the
17 transaction. So here's the understanding I have, from
18 everything I've read and all the documents -- and I can
19 take the time to walk you through the documents if you
20 don't recall.

21 But let me ask you a question, based on my
22 understanding: Was Avellino & Bienes obtaining money
23 from other people, be it friends, former clients,
24 relatives, people who were referred to you, were they
25 obtaining money from these people, then giving these

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1 Bienes." Okay. Was the Wall Street broker who is being
2 referred to in this letter, on your company's
3 letterhead, Bernie Madoff?

4 A Must have been.

5 Q Okay. Because that is the broker who you were
6 doing business with, correct?

7 A Yes.

8 Q Okay. And do you recall that, at least as of
9 this time in 1991, that Avellino & Bienes, your company,
10 was accommodating relatives, friends and former clients,
11 by giving them an opportunity to invest with -- in
12 Avellino & Bienes, who was then investing in Madoff?

13 MR. ETRA: Objection to form.

14 THE WITNESS: I'm not sure I understand what
15 you're asking me.

16 BY MR. SAMUELS:

17 Q Okay. So let's go to the first paragraph.
18 "What we do at Avellino & Bienes is to accommodate
19 relatives, friends and former clients that we have
20 serviced when we were certified public accountants." Do
21 you recall, in 1991, if Avellino & Bienes was no longer
22 providing services as certified public accountants?

23 MR. ETRA: Objection to form. Go ahead.

24 THE WITNESS: Yes.
25

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1 people promissory notes with guaranteed rates of return,
2 and then Avellino & Bienes would take that money and
3 invest it in Madoff? Is that what Avellino & Bienes was
4 doing?

5 MR. ETRA: Objection.

6 THE WITNESS: I can't swear to it. I just,
7 you know -- I was not really around.

8 BY MR. SAMUELS:

9 Q Where were you in 1991, if you weren't really
10 around?

11 A Traveling, living in New York, socializing.

12 Q Where did you get all the money to travel and
13 socialize and live in New York?

14 A From Avellino & Bienes.

15 Q Okay. And were you -- you were working at
16 Avellino & Bienes then but you just said you weren't
17 around. How often -- how many days a week were you
18 working?

19 MR. ETRA: Objection. Timeframe?

20 MR. SAMUELS: 1991 --

21 MR. ETRA: Thank you.

22 MR. SAMUELS: -- 1990, early 1990s, before the
23 SEC came in. You remember the SEC coming in?

24 THE WITNESS: Yes.
25

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1 BY MR. SAMUELS:

2 Q And you entered a consent order, right?
3 So let's talk about a few years before that,
4 while Avellino & Bienes is accepting funds from friends,
5 relatives, former clients. That timeframe, okay?

6 MR. ETRA: Objection.

7 BY MR. SAMUELS:

8 Q Do you recall receiving money during that
9 timeframe from third parties, who were providing money
10 to Avellino & Bienes to enable that money to then get
11 invested in Madoff?

12 A This was all done by the staff. I -- you
13 know, they did it, not me.

14 Q Did you have an understanding of how these --
15 of how the investments were being made in Madoff by
16 Avellino & Bienes?

17 A I don't understand the question.

18 Q Okay. You mentioned that Avellino & Bienes'
19 business was investing and that they were investing with
20 Madoff, correct?

21 A Yes.

22 Q Okay. Do you have an understanding as to
23 where Avellino & Bienes was getting the money to invest
24 in Madoff?

25 A Generally, other people.

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1 A Voluntarily.

2 Q And would you admit that your recollection of
3 events that transpired in the Avellino & Bienes' days,
4 was better at the time that you gave the TV interview
5 than it is as you're sitting here today?

6 A I can't judge that. I don't know. I don't
7 know.

8 Q Okay. So let's continue on with this letter,
9 okay? Let's go to the third paragraph, please. And
10 so -- actually, above that she says, "We have been very
11 profitable in all the years we have been mutually
12 involved in business. We'll continue the same as in the
13 past to our best abilities."

14 Now, I want to ask you about this next
15 paragraph: "We do not encourage new accounts and,
16 therefore, do not solicit same." Do you recall that
17 Avellino & Bienes was not soliciting new accounts from
18 people that were unknown to them?

19 A I certainly wasn't.

20 Q Do you know if Avellino & Bienes' policy was
21 not to solicit new accounts from people who were unknown
22 to them?

23 A I don't know. I know I didn't.

24 Q And if you mentioned -- strike that.

25 Let's go to the next paragraph, in terms of

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1 Q And were those other people generally friends,
2 former clients and relatives, and people who were
3 otherwise known to Avellino & Bienes?

4 A I can't respond to that because I was not into
5 the details. I don't know.

6 Q Well, this is what you said in your interview
7 on TV. Were you telling -- were you telling the truth
8 in your interview?

9 MR. ETRA: Objection.

10 THE WITNESS: To the best of my recollection,
11 I tried.

12 BY MR. SAMUELS:

13 Q So if you mentioned in your TV interview that
14 you were only accepting funds from people who you knew,
15 such as friends, family and relatives, would that be a
16 true statement?

17 MR. ETRA: Objection.

18 THE WITNESS: It's what I said at the time on
19 the TV interview. I was not at the top of my game.
20 My life had just blown up. I was up against a
21 professional and I had a TV camera on me. So I was
22 trying to, I don't know, make a statement.

23 BY MR. SAMUELS:

24 Q Okay. And did anyone force you to do that
25 interview or did you do it voluntarily?

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1 Lola mentioning how these transactions work, okay? It
2 says: "Let me clarify one important thing: The money
3 that is sent to A & B" -- that's Avellino & Bienes --
4 "is a loan to Avellino & Bienes, who, in turn, invests
5 it on behalf of Avellino & Bienes, for which our clients
6 receive quarterly interest payments. This is evidenced
7 by a form 1099 at the end of the year."

8 Do you recall that as being the way that
9 Avellino & Bienes was obtaining money from clients, that
10 would then be invested in Madoff?

11 A I can't say I don't. It seems to be, more or
12 less, what we were doing.

13 Q Okay. Do you have a different or better way
14 of describing what you were doing with investing in
15 Madoff?

16 A I wouldn't attempt that, no. No.

17 Q You don't recall?

18 A No. I really don't.

19 Q And you don't dispute what Lola is saying, in
20 terms of how the transactions were structured?

21 A I was -- I was not really involved in it, so I
22 wouldn't know.

23 Q Okay.

24 MR. SAMUELS: We're going to mark this as
25 Exhibit 30.

Page 30

1 (Plaintiffs' Exhibit No. 30 was marked for
2 identification.)
3 BY MR. SAMUELS:
4 Q Okay. Do you remember the Securities Exchange
5 Commission investigating Avellino & Bienes?
6 A Yes.
7 Q Okay. And do you recall agreeing to a final
8 judgment of permanent injunction with the Securities and
9 Exchange Commission?
10 A I know we agreed to something on the advice of
11 counsel. What it was, I don't know.
12 Q Do you understand that, as a result of this
13 order, you agreed that you would no longer be involved
14 in the sale of securities?
15 A Yes. Yes.
16 Q Okay. And let's go to page 4, please. Where
17 it says that it's ordered, adjudged and decreed that
18 defendants, Avellino & Bienes -- Avellino & Bienes, et
19 cetera.
20 And then let's go to A: "Offering for sale,
21 selling or delivering after sale, for the use of mails
22 or any means or instrumentalities of interstate
23 commerce, any security or any interest in security" --
24 does that purport with your understanding that you were
25 precluded from selling securities as a result of this

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1 injunction?
2 A Yes, it seems.
3 Q Okay. So let's go to page 5. See on page 5
4 of this order, where there was a civil penalty in the
5 amount of \$250,000 for Avellino & Bienes, \$50,000 for
6 Avellino and \$50,000 for Bienes. Do you see that?
7 A Yes.
8 Q So, sir, why did you agree to pay \$50,000, if
9 you weren't involved in the receipt of money from third
10 parties into Avellino & Bienes or the investment of that
11 money into -- into Madoff?
12 MR. ETRA: Objection.
13 THE WITNESS: Why did I agree?
14 MR. SAMUELS: Yes.
15 THE WITNESS: The attorney said, "We can close
16 this thing out and end it, and this is what it's
17 going to cost. Are you good for that?"
18 And I said, "If my partner is, I certainly
19 am."
20 He said, "Good decision."
21 BY MR. SAMUELS:
22 Q So you did it on advice of counsel?
23 A Yes.
24 Q Okay. And we then have, at the end of this
25 document, it's a consent of Michael S. Bienes. And it

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1 starts out by saying --
2 MR. ETRA: Just -- I'm not sure he has the
3 page.
4 Do you have the page?
5 THE WITNESS: What -- what page?
6 MR. SAMUELS: I can get it.
7 MR. ETRA: Would you mind getting it for him?
8 MR. SAMUELS: Sure.
9 THE WITNESS: Yeah.
10 MR. ETRA: Thanks.
11 MR. SAMUELS: No problem.
12 BY MR. SAMUELS:
13 Q Consent of Michael S. Bienes. And it starts
14 out by saying, "Defendant, Michael Bienes, having read
15 and understood the terms of the annexed final judgment
16 of permanent injunction" -- and then it talks about your
17 consent to the final judgment. I want to ask you if
18 that's your signature on the last page of this document.
19 A It looks like my signature, yes.
20 Q Okay. Was your wife a partner in Avellino &
21 Bienes?
22 A No.
23 Q If we stay on this document and go to page --
24 MR. SAMUELS: If we go -- here. Let me just
25 turn to the page. It's called a resolution of

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1 Avellino & Bienes. Here. Let me find it.
2 MR. ETRA: You have Bates numbers on this?
3 Can you just give us the Bates numbers?
4 MR. SAMUELS: Yeah. 3588.
5 BY MR. SAMUELS:
6 Q It says: "Resolution of Avellino & Bienes."
7 And it's got a signature for Frank Avellino, Michael S.
8 Bienes and Dianne K. Bienes. And lists her as a general
9 partner of Avellino & Bienes. Was she, in fact, a
10 general partner of Avellino & Bienes, in June of 1993?
11 A I don't recollect. If -- she must have been.
12 They told her to sign. She signed.
13 Q Okay. So, do you recall if all the people who
14 invested in Avellino & Bienes were paid back in full,
15 after the SEC stopped Avellino & Bienes from selling
16 securities?
17 A I do recollect that monies went out, and it
18 seemed that everyone got their money.
19 Q Okay. And do you know where the money came
20 from to pay everyone back?
21 A Obviously, from the Madoff Organization.
22 Q And were you in communication with anyone at
23 the Madoff Organization, in connection with them paying
24 back the investors of Avellino & Bienes?
25 A Not that I can remember.

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1 Q Did -- back in that timeframe, did Madoff ever
2 guarantee -- ever guarantee investors in Madoff a rate
3 of return?

4 MR. ETRA: What timeframe? You said "that
5 timeframe."

6 MR. SAMUELS: 1990s.

7 THE WITNESS: Investors in Madoff?

8 BY MR. SAMUELS:

9 Q Or investors in Avellino & Bienes, who
10 invested in Madoff. Whoever's money ultimately ended up
11 in Madoff, were they ever guaranteed a rate of turn?

12 MR. ETRA: Objection.

13 THE WITNESS: By Madoff?

14 MR. SAMUELS: By Madoff.

15 THE WITNESS: Oh, not to my knowledge.

16 BY MR. SAMUELS:

17 Q Was there ever any point in time where
18 Madoff -- ever any point in time where Madoff provided a
19 guaranteed rate of return?

20 A Not to my knowledge.

21 Q When did you or clients or friends or
22 relatives of yours first start investing money in
23 Madoff?

24 A Clients were invested with Madoff and
25 friends -- not mine. When I first came to the firm they

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1 She says, "Do you think Bernie would open an
2 account for me, Bernie Madoff?"

3 I said, "I'll have somebody call him." I
4 didn't call. I had no relationship. And he did. And
5 she opened an account with Madoff with, I believe --
6 don't hold me -- 5,000.

7 Q Okay. And was that money jointly yours and
8 your wife's?

9 A (Indicating).

10 Q It was her money?

11 A Her money.

12 Q Okay. And is that Dianne or --

13 A Dianne K. Bienes.

14 Q And how long have you been married? What year
15 were you married? How's that? That might be an easier
16 one.

17 A Good thing she's not here. 1973.

18 Q Okay. And how was your wife aware of the fact
19 that Madoff was accepting funds to be invested?

20 A I told her.

21 Q Okay. Aside from your wife's initial \$5,000,
22 when did you or family members or -- let's just stick to
23 you or family members -- start investing in Madoff?

24 MR. ETRA: Objection.

25 THE WITNESS: I don't remember doing that.

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1 had investments with Madoff.

2 Q When did you or friends or relatives or
3 clients brought into the accounting firm, specifically
4 by you, first begin investing in Madoff?

5 MR. ETRA: Objection.

6 THE WITNESS: I don't understand. They were
7 there and it just grew.

8 BY MR. SAMUELS:

9 Q Okay. So at the time you got there, clients,
10 friends, family members of yours --

11 A Not mine.

12 Q -- clients -- okay. So forget about firm
13 clients when you were there. I'm talking about
14 people -- I'm talking about you, companies in which
15 you're affiliated, friends of yours or relatives of
16 yours. When did they first start investing in Madoff?

17 MR. ETRA: Objection.

18 THE WITNESS: I can't recall any relatives of
19 mine or any friends of mine investing in Madoff.

20 BY MR. SAMUELS:

21 Q When did you or your wife or any entities in
22 which you were involved start investing in Madoff?

23 A I remember in the early '70s, my then wife
24 told me, "I saved up \$5,000. Aren't you proud of me?"
25 I said, "Oh, yes."

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1 BY MR. SAMUELS:

2 Q You, personally, Michael Bienes, do not
3 remember investing in Madoff?

4 MR. ETRA: Objection.

5 THE WITNESS: I don't recall I did.

6 BY MR. SAMUELS:

7 Q Ever? Through today's date, you've never
8 invested in Madoff?

9 A Wait a minute, now. After the SEC and we
10 closed everything out --

11 Q Yes.

12 A -- and we regrouped, we created some entities
13 for ourselves. So, yes, you could consider that Michael
14 Bienes investing in Madoff.

15 Q Yeah. And that's what I'm asking about.

16 A Yeah.

17 Q Okay. So you're saying the first time you
18 invested in Madoff was after the SEC order?

19 A Not into him. I was in an entity that
20 invested.

21 Q I understand. But the first time was after
22 Avellino & Bienes?

23 A Yes.

24 Q So while Avellino & Bienes was in existence,
25 you did not directly or indirectly or any -- or any of

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1 your family members, aside from maybe your wife's
2 \$5,000, invest in Madoff; is that your testimony?
3 A I can't relect -- recollect doing so.
4 Q Okay.
5 A Anything is possible but I truly don't
6 remember.
7 Q All right. Have you heard of an entity called
8 Grosvenor Partners?
9 A Yes.
10 Q And were you involved in that entity?
11 A Yes.
12 Q And what was your involvement in that entity?
13 A I was a partner in that entity.
14 Q And did Grosvenor Partners invest funds in
15 Madoff?
16 A To my knowledge, yes.
17 Q And did you -- did you invest money in Madoff,
18 through Grosvenor?
19 A I don't remember. I don't remember adding on
20 to my -- that, I don't remember.
21 Q Well, I'm trying to figure -- what account did
22 you have and when, for the first time?
23 A After the SEC?
24 Q Yes. Did you have a personal account or was
25 it through an entity?

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1 A Through an entity.
2 Q And I'm going to name a couple entities and
3 you tell me when I got the name right, okay? Grosvenor,
4 Mayfair Ventures General Partnership, Aster Associates,
5 St. James Associates, Mayfair Pension Plan,
6 Knightsbridge of South Florida, Mayfair Bookkeeping
7 Services, Inc. Any of those?
8 MR. ETRA: Objection to form. I'm not -- I
9 don't know what the question is.
10 MR. SAMUELS: I'm naming entities to see --
11 to -- first of all, it's not appropriate to object
12 to the form, if you don't know what the question
13 is.
14 MR. ETRA: Objection to form. I don't know
15 what the question is.
16 MR. SAMUELS: You don't know what the question
17 is because you didn't listen.
18 MR. ETRA: No. I listened, but I'm not sure
19 it's clear. That's fine. Objection to form.
20 BY MR. SAMUELS:
21 Q All right. So I'm going to name entities for
22 you. You said you had an account, right? You said you
23 had an account with Madoff.
24 A No, I didn't.
25 Q Did you have an account with Madoff?

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1 A When?
2 Q Directly or indirectly -- you said immediately
3 after Avellino & Bienes shut down.
4 A A personal account?
5 Q An account with your money, yes.
6 A But through an entity?
7 Q But through an entity.
8 A Yes.
9 Q Okay. So I am going to -- you said you didn't
10 remember the name of the entity, right? Do you remember
11 it?
12 A I tried to.
13 Q Okay. Can you tell me the name of the entity?
14 A Grosvenor.
15 Q Okay. So Grosvenor is the first entity in
16 which you took -- you personally invested in Madoff?
17 A To the best of my recollection, yes.
18 Q Okay. All right.
19 Now, I'm going to name -- now, Mr. Avellino
20 was also involved in Grosvenor, right?
21 A Yes.
22 Q Did you have other friends or family members
23 or clients of yours invested in Madoff through
24 Grosvenor?
25 A I had my mother-in-law and father-in-law

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1 invested through Grosvenor, yes.
2 Q Okay. Anybody else?
3 A No.
4 Q Okay. How about Mayfair Ventures General
5 Partnership? Did you invest through that?
6 A Yes.
7 Q Okay. And did any of your friends or family
8 members also invest in Mayfair?
9 A No.
10 Q Aster Associates, did you invest in Madoff
11 through Aster Associates?
12 A No.
13 Q Did you invest in Madoff through St. James
14 Associates?
15 A Yes.
16 Q Okay. And your wife, as well?
17 A St. James?
18 Q Uh-huh.
19 A Yes.
20 Q Any other friends or family members or clients
21 invest in Madoff through St. James Associates?
22 A No.
23 Q Okay. Did you invest in Madoff, directly or
24 indirectly, through Mayfair Pension Plan?
25 A We were participants in the plan.

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1 Q Okay. You and your wife?
2 A Yes.
3 Q And as participants in the plan, you had money
4 invested in Madoff through that plan?
5 A I believe so, yes.
6 Q Okay. How about Knightsbridge of South
7 Florida, Inc.?
8 A No.
9 Q Ascent, Inc.?
10 A No.
11 Q Mayfair Bookkeeping Services, Inc.?
12 A No.
13 Q You were listed as a director on that. Are
14 you sure that you didn't invest through that?
15 A Which one?
16 Q Mayfair Bookkeeping Services, Inc.
17 A No. That wasn't an investment vehicle.
18 Q Okay. How about -- okay.
19 MR. SAMUELS: Thirty-one.
20 (Plaintiffs' Exhibit No. 31 was marked for
21 identification.)
22 (Discussion held off the record.)
23 BY MR. SAMUELS:
24 Q Do you know a gentleman by the name of Michael
25 Sullivan?

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1 A Yes.
2 Q And how did you meet Michael Sullivan?
3 A At the end of the SEC litigation, I was
4 informed that the Internal Revenue Service was going to
5 conduct an audit, tax audit of certain entities for
6 certain tax years, but I don't recollect which entities
7 and which tax years.
8 Q So how did that -- what does that have to do
9 with you needing Michael Sullivan?
10 A I remember, not the details, but that Frank
11 Avellino said, "What do you think about the idea of
12 having an outsider represent us before the IRS, rather
13 than us?"
14 And I said, "It sounds reasonable."
15 He said -- and I don't recollect the
16 conversation, so. I do know that a recommendation to
17 the name of the firm called Sullivan and Powell in Fort
18 Lauderdale was given me.
19 Q Was that recommendation from Mr. Avellino?
20 A I would assume so, yes.
21 Q Okay. And when was that, the 1992/'93
22 timeframe?
23 A It could be '93 or '94.
24 Q And were your offices located at 6550 Federal
25 Highway at that time?

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1 A We had rented office space at 6550, but we had
2 never activated the office.
3 Q And when did you rent the office space at
4 6550?
5 A I don't recollect.
6 Q Okay. And before Mr. Avellino recommended
7 Mr. Sullivan to you to assist in the IRS issues, did you
8 know that you were on the same floor in the office
9 building as Mr. Sullivan?
10 A He may have told me, but I don't remember.
11 Q Okay. So you -- at that time, when
12 Mr. Avellino recommended Mr. Sullivan to you, you were
13 unaware of the fact that Mr. Sullivan was in your same
14 building on the same floor?
15 MR. ETRA: Objection.
16 MR. WOODFIELD: Objection.
17 THE WITNESS: I didn't say that. I just don't
18 remember.
19 BY MR. SAMUELS:
20 Q Okay. And when you say the office wasn't
21 activated, who was the tenant in that office space? Was
22 it Avellino & Bienes?
23 A I believe so, yes.
24 Q And so, where did you conduct business on
25 behalf of Avellino & Bienes, if that office space was

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1 not activated?
2 MR. ETRA: Objection.
3 THE WITNESS: I didn't.
4 BY MR. SAMUELS:
5 Q You didn't? Prior to the time the SEC shut
6 you down, where did you conduct your business for
7 Avellino & Bienes?
8 A Prior to the SEC?
9 Q Uh-huh.
10 A New York City.
11 Q Okay. And when did you move down to Florida?
12 A When did I --
13 Q Yes.
14 A -- move down to Florida?
15 Q Uh-huh.
16 A It wasn't the move. It was a gradual transfer
17 over a period of many years.
18 Q So when Avellino & Bienes was shut down by the
19 SEC, Avellino & Bienes was operating out of New York,
20 not in Florida?
21 A That would be a correct statement, yes.
22 Q And at what point in time did you begin
23 conducting business in Florida, as opposed to New York?
24 MR. ETRA: Objection.
25 THE WITNESS: To my memory, we never did.

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1 BY MR. SAMUELS:
2 Q So after Avellino & Bienes shut down, in 1992,
3 what did you do for work?
4 A Nothing.
5 Q Nothing. You were not employed?
6 A I was retired.
7 Q And at that point in time, was all your money
8 invested in Madoff?
9 A I would say the major portion.
10 Q Okay. How old were you when you retired?
11 A Late 40s.
12 Q Okay. Okay. Let's go now to what's been --
13 so in terms of Mr. Sullivan, when did you become aware
14 that Mr. Sullivan -- strike that.
15 When did you first hear of a company called
16 S&P Associates or P&S Associates? Actually, by the way,
17 let me back up a little bit. And let's turn to
18 Exhibit 3 for a moment. Next one. There you go.
19 That's seven. I guess it's out of order.
20 THE WITNESS: Do you want to help me?
21 MR. SAMUELS: Yeah.
22 THE WITNESS: Thank you, sir.
23 BY MR. SAMUELS:
24 Q Here we go. Okay.
25 So I just want to show you Exhibit 3 for a

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1 Avellino & Bienes?
2 A I was not aware.
3 Q Okay. So you're saying now, the first time
4 you met Mr. Sullivan was not through his work or
5 investing in Avellino & Bienes, but when he was retained
6 to assist you in tax issues?
7 (At 11:08 a.m., Mr. Messina entered the
8 proceedings.)
9 A That would be a correct statement.
10 Q Okay. All right. Well, now's a good time for
11 a break, so.
12 VIDEOGRAPHER: Off the record at 11:09 a.m.
13 (Thereupon, a recess was taken from 11:09 a.m.
14 to 11:18 a.m.)
15 VIDEOGRAPHER: Back on the record at
16 11:18 a.m.
17 BY MR. SAMUELS:
18 Q Mr. Bienes, I want to show you what's been
19 marked as Exhibit 31, which is a letter that S&P
20 Associates, care of Sullivan and Powell -- you
21 understood that S&P Associates -- you understood S&P and
22 P&S to be entities that were investing people's money in
23 Madoff, correct?
24 A If you say so, yes.
25 Q It's not if I say so, sir, it's I'm asking you

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1 moment. And this is a letter to Avellino & Bienes from
2 S&P Investment Group, Michael Sullivan and Gregory
3 Powell.
4 MR. ETRA: Which page are you on?
5 MR. SAMUELS: Exhibit 3, page 2. Do you see
6 that?
7 MR. ETRA: Page 2.
8 THE WITNESS: You said where?
9 MR. ETRA: Page 2, Michael, page 2.
10 MR. SAMUELS: Page 2 of the exhibit.
11 THE WITNESS: Oh.
12 BY MR. SAMUELS:
13 Q Do you see that?
14 A Yes.
15 Q Okay. So on page 2, do you see there's a
16 letter from S&P Investment Group to Avellino & Bienes?
17 A Yes.
18 Q And do you see on the letterhead there's a
19 gentleman -- there's two gentlemen, Michael Sullivan and
20 Gregory Powell?
21 A Yes.
22 Q Were you aware, prior to the SEC shutting
23 Avellino & Bienes down, that an entity called S&P
24 Investment Group, of which Michael Sullivan was
25 involved, was investing in or sending investors to

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1 a question. Don't assume that what I'm saying is true.
2 You received a lot of money from this organization. If
3 you want to say, if I say so, and you want to tell the
4 jury you're basing it on what I say so, that's fine. If
5 you want to answer the question I ask, that's what
6 you're here to do, okay?
7 MR. ETRA: Keep your voice down and don't
8 lecture my client. Just ask questions and he'll
9 answer them.
10 MR. SAMUELS: I'm asking -- he's asking me if
11 I say so, and I'm responding to him and telling
12 him --
13 MR. ETRA: Respond without lecturing.
14 BY MR. SAMUELS:
15 Q So -- so here's the issue, Mr. Bienes, do you
16 understand how it works today? It's not what I say.
17 I'm not under oath. At the beginning of this deposition
18 I reminded you that you're here to testify truthfully,
19 as though you're in front of a judge and a jury. Are
20 you going to tell me that you do not know whether or not
21 S&P and P&S invested in Madoff? Is that your testimony,
22 sir?
23 MR. ETRA: Objection.
24 THE WITNESS: I do not know if they --
25

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1 BY MR. SAMUELS:
2 Q Here's -- do you know whether or not S&P
3 invested people's money in Madoff?
4 A I have no firsthand knowledge.
5 Q So you don't know, sir?
6 A I don't know if they did, no.
7 Q Okay. And how about P&S? Do you know if P&S
8 invested people's money in Madoff?
9 A That would be the same answer.
10 Q You do not know, is your answer?
11 A I don't know, no.
12 Q What do you believe that they did with
13 people's money?
14 A Invested.
15 Q Invested where, sir?
16 A If you want me to guess, you know, I would
17 say -- if you want me to guess.
18 Q I would like you to guess, sir, yes. What is
19 your guess?
20 A I would think Madoff.
21 Q You would?
22 A Yeah.
23 Q And what are you basing that on?
24 A Just my general knowledge.
25 Q And where did you obtain the general knowledge

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1 from --
2 A From --
3 Q -- to allow you to guess that S&P and P&S were
4 investing people's money in Madoff?
5 A I can't give you a specific answer. I don't
6 know.
7 Q You don't know where you got that information?
8 A No.
9 Q Okay.
10 A Just generally understood it.
11 Q Okay. And what are you basing that
12 understanding on?
13 A I don't understand you now.
14 Q You said you generally understood that S&P and
15 P&S were investing people's money in Madoff. Where did
16 you get that understanding from?
17 A I don't know. I can't recollect anyone
18 telling me.
19 Q Okay. All right. So let's look at what's
20 been marked as Exhibit 31, which is a letter from Fred
21 Zittel to S&P Associates. Do you know Fred Zittel?
22 A No, I do not.
23 Q Okay. So this letter -- let's read it. It
24 says: "In a talk with a good friend, who is a relative
25 of Michael and Dianne Bienes, concerning the effect of

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1 inflation on our present finances, she mentioned that
2 probably your organization could be helpful in investing
3 some of our CDs. I suppose if you have a brochure, all
4 of my questions could be answered. If so, would you
5 kindly send me one.
6 "I am mainly concerned to know if there is a
7 specific amount I must invest and if there is a minimum.
8 Once I have made an investment, can I add or withdraw
9 thereto or therefrom? Your cooperation in this matter
10 would be greatly appreciated." Do you see that?
11 A Yes.
12 Q Fred Zittel. So she got Mr. Sullivan's name,
13 the name of S&P Associates, apparently, from a relative
14 of Michael and Dianne Bienes. Did you ever mention to
15 any of your relatives the fact that S&P or P&S or
16 Michael Sullivan or Mr. Powell were investing people's
17 money?
18 A I can't recollect doing that, no.
19 Q Okay. Do you know if Mr. Zittel ever did
20 invest money?
21 A I don't know Mr. Zittel.
22 MR. SAMUELS: Okay. Let's go now to -- I'm
23 going to mark this as Exhibit 32.
24 (Plaintiffs' Exhibit No. 32 was marked for
25 identification.)

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1 BY MR. SAMUELS:
2 Q Do you know Benjamin Millman?
3 A Never heard of him.
4 MR. WOODFIELD: Just a point of reference, is
5 this a document that's been produced?
6 MR. SAMUELS: I don't know. It doesn't have a
7 Bates label on it. I'm not sure if it's been
8 produced or not.
9 MR. WOODFIELD: What are those numbers in the
10 lower left? Is that not something you added or do
11 you know what those are?
12 MR. SAMUELS: No. Oh, maybe it is. I -- I
13 honestly don't know. I'll try to get an answer for
14 you.
15 MR. ETRA: I don't know either, but the judge
16 said in the hearing -- I don't think you were
17 present then -- that he only wants documents that
18 were produced and used during deposition. So I
19 don't want to argue with you about whether this was
20 produced or not, but if it wasn't, then it
21 shouldn't be used.
22 MR. SAMUELS: I'll need to find -- I'll need
23 to find --
24 MR. ETRA: I don't know if it was or not, but
25 I'm objecting, if it's used, but I'm not going to

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1 stop the deposition on it if it's --
2 MR. SAMUELS: All I can tell you is I will
3 try, during a break, to determine whether or not
4 this has been produced.
5 MR. WEBER: I don't think that's exactly what
6 the judge said.
7 MR. ETRA: I don't have the transcript in
8 front of me. That's my best recollection.
9 BY MR. SAMUELS:
10 Q All right. So you don't know a Benjamin
11 Millman?
12 A No, sir.
13 Q Okay. So he is saying here in a letter, P&S
14 Associates, care of Sullivan and Powell: "I recently
15 learned from associate and dear friend, Sam Rosen, of
16 the formation of P&S Associates. Previously, I had
17 invested in Avellino & Bienes." Do you see that?
18 A Yes, sir.
19 Q Okay. Do you know who Sam Rosen is?
20 A No. No.
21 Q Okay. Were you aware that Sam Rosen -- I'm
22 sorry. Were you aware that Mr. Millman had previously
23 invested in Avellino & Bienes?
24 A No.
25 Q Okay. And do you know how it is that

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1 A I consider him my brother.
2 Q Okay. And for how long have you considered
3 him your brother?
4 A From the first time I laid eyes on him.
5 Q Okay. So he's been your brother for decades?
6 A Yes, sir.
7 Q And you trust him?
8 A With my life.
9 Q Okay. And let's now go to this invoice. Do
10 you know why Mr. Avellino was meeting with Ahearn Jasco
11 & Company on behalf of S&P Associates?
12 MR. WOODFIELD: Object to the form.
13 THE WITNESS: This is the first time I've seen
14 this. I have no idea.
15 BY MR. SAMUELS:
16 Q Do you recall Mr. Avellino discussing -- ever
17 discussing with you the fact that S&P and P&S were being
18 set up as vehicles to invest in Madoff?
19 MR. ETRA: Objection to form.
20 THE WITNESS: I do not recollect such a
21 conversation.
22 BY MR. SAMUELS:
23 Q Okay. Do you remember in your TV interview,
24 indicating that it was your belief that Mr. Avellino put
25 Sullivan and Powell in touch with Bernie Madoff to open

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1 Mr. Millman, a former client of Avellino & Bienes, was
2 able to locate P&S Associates or Michael Sullivan?
3 A No idea.
4 Q Let's turn now to Exhibit 5. Exhibit 5 is a
5 bill from Ahearn Jasco & Company to S&P Associates
6 General Partnership. In 1994, at this point in time,
7 were you and Mr. Avellino, through entities investing --
8 and we went through some of them -- at this point in
9 time, were you investing in Madoff directly or
10 indirectly?
11 A '94?
12 Q Uh-huh.
13 A Yes.
14 Q Okay. And were you and Mr. Avellino doing
15 that, in some instances, through the same entity?
16 A You mean Grosvenor?
17 Q Grosvenor would be one, yes.
18 A Yes.
19 Q Okay. And were you in frequent communication
20 with Mr. Avellino through this timeframe?
21 A Frequent, no.
22 Q Were you social -- did you socialize with
23 Mr. Avellino over the years?
24 A Very rarely.
25 Q You consider him a friend of yours, right?

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1 up accounts?
2 MR. ETRA: Objection.
3 THE WITNESS: Did I say that?
4 MR. SAMUELS: Yes.
5 THE WITNESS: It was belief. If I said it, it
6 was belief, not -- not knowledge.
7 BY MR. SAMUELS:
8 Q So if it was your belief that he did that,
9 during a television interview, do you understand now
10 that S&P and P&S were investing in Madoff?
11 A After the collapse of Madoff I certainly did,
12 but not really before.
13 Q Okay. And what -- what happened after the
14 collapse of Madoff that led you to understand that S&P
15 and P&S were investing in Madoff?
16 A All of the surrounding events, newspaper
17 articles, people. I had to figure once they were so
18 involved, it had to be Madoff.
19 Q So what people in particular are you referring
20 to?
21 A None. Just generally. The press.
22 Q Okay. So you remember reading articles about
23 Sullivan and Powell or S&P? Strike that.
24 You remember reading newspaper articles about
25 Michael Sullivan or an entity in which he was involved

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1 with having invested in Madoff?
2 A Vaguely. Vaguely.
3 Q Okay. Because you -- you said that's how you
4 came to understand that S&P and P&S or Sullivan invested
5 in Madoff. So you have a vague understanding of seeing
6 something in the newspaper? Yes?
7 A Yes.
8 Q And you said you understood from people.
9 Father Kelly talked to you about it?
10 A No.
11 Q So what people are you referring to?
12 A I can't recollect. I just don't. Just the
13 whole swirl of events.
14 Q So the whole swirl of events after Madoff is
15 what led you to believe that S&P and P&S were investing
16 in Madoff?
17 A More or less, yes. More or less, yes.
18 Q Now, do you recall referring any people to
19 Michael Sullivan to invest in S&P or P&S?
20 A Yes.
21 Q And who did you refer to Michael Sullivan to
22 invest in S&P or P&S?
23 A I referred two people to Michael Sullivan.
24 Nothing with P&S and S&P. That had no meaning to me.
25 Q Okay. And who were the two people you

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1 referred?
2 A The first one, Professor Marvin Seperson.
3 Q And did Professor Marvin Seperson invest with
4 Michael or any of his entities?
5 A Months after I gave him the recommendation, he
6 said to me that he had gone to Sullivan's office with
7 his wife and they had made an investment.
8 Q Okay. And who's the other person?
9 A Sandra Dydo.
10 Q And going back to Marvin Seperson, how did you
11 know Marvin Seperson?
12 A We were high school classmates.
13 Q Okay. And Sandra Dydo, how do you know Sandra
14 Dydo?
15 A She is my ex sister-in-law.
16 Q And do you know if she ever invested with
17 Michael Sullivan or in any of Michael Sullivan's
18 entities?
19 A I believe she did.
20 Q What did you know of the type of investments
21 Michael Sullivan was doing to enable you to recommend
22 people to him or his companies?
23 A He was, I assumed -- I don't know if it was
24 S&P, P&S. He was with Madoff and I was with Madoff, so.
25 Q So at the time that you made the

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1 recommendations to Marvin Seperson and Sandra Dydo --
2 A Dydo.
3 Q -- Dydo, you were aware that Sullivan and/or
4 the entities that he was involved, was investing in
5 Madoff?
6 A Pretty much, yes.
7 Q When did you first become aware of the fact
8 that Sullivan, or the entities in which he was operating
9 through, were investing in Madoff?
10 A Sometime in the 1990s. I think Frank Avellino
11 mentioned to me -- and I don't recollect the
12 conversation -- that the guys had gone into business and
13 were doing what we used to do.
14 Q "The guys," being Sullivan and Powell?
15 A Yes, sir.
16 Q And were you aware that Mr. Avellino had a
17 close relationship with Mr. Sullivan?
18 MR. ETRA: Objection.
19 THE WITNESS: I don't know what you mean by
20 "close." I never knew him.
21 BY MR. SAMUELS:
22 Q What did you know of the relationship between
23 Mr. Avellino and Mr. Sullivan?
24 A I know they pray at the same church.
25 Q Did you know that they went to weekly Bible

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1 study sessions together?
2 A No, I don't believe so.
3 Q Okay. So I asked you earlier about licenses.
4 You're not a licensed investment adviser, correct?
5 A That is correct.
6 Q Okay. I want to ask you the names of some
7 people. And you can let me know if you know who they
8 are, okay?
9 A Yes, sir.
10 Q Vincent T. Kelly?
11 A Yes.
12 Q And who's Vincent T. Kelly?
13 A Vincent T. Kelly is Monsignor Kelly, a Roman
14 Catholic priest.
15 Q And what church is he a priest at?
16 A I believe he is pastor of St. John the Baptist
17 Roman Catholic church, in Fort Lauderdale.
18 Q Okay. And are you a member of that
19 congregation?
20 A We were.
21 Q Okay. And for what years were you a member of
22 that congregation?
23 A Best estimate?
24 Q Yeah.
25 A Early 1980s to about 2010 or '11.

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1 Q And what caused -- and so you no longer go to
2 that church?
3 A That is correct.
4 Q And what caused you to stop going to that
5 church after all those years?
6 A Various reasons. Personal reasons.
7 Q And were -- did any of those personal reasons
8 have to do with the fact that members of that church had
9 invested in Madoff, through your recommendation?
10 MR. ETRA: Objection.
11 THE WITNESS: Absolutely not.
12 BY MR. SAMUELS:
13 Q Did any of those personal reasons have to do
14 with the fact that a number of the members of the church
15 lost money in Madoff?
16 A Absolutely not.
17 Q You're aware, are you not, that Father Kelly
18 invested in Madoff through Sullivan or one of Sullivan's
19 entities, correct?
20 A I -- I am aware of it, yes.
21 Q And are you the person who suggested to Father
22 Kelly that he invest with Michael Sullivan or one of his
23 entities?
24 A Absolutely, I did not.
25 Q And if he were to say, under oath, that you

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1 did, you're telling me he would not be telling the
2 truth?
3 A He would be mistaken.
4 Q Okay. Do you know how it is that Father Kelly
5 came to be an investor in S&P or P&S or Michael --
6 through Michael Sullivan?
7 A No.
8 Q Let me rephrase -- let me rephrase that
9 question. Do you know how Father Kelly came to be an
10 investor in -- through -- with Michael Sullivan or one
11 of his entities?
12 A I do not.
13 Q Okay. Okay. I'm going to ask you the names
14 of some people and -- Sam -- do you know Sam Rosen? I
15 may have asked you that.
16 A You did. I don't.
17 Q Donna Lipworth?
18 A No.
19 Q Margaret Lipworth?
20 A That's a name I remember from years and years
21 ago. I may have met her socially, once or twice.
22 Q Did you ever discuss with her at all anything
23 having to do with Bernie Madoff or investments in
24 Madoff?
25 A Absolutely not.

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1 Q Do you know a Margaret or Stephen Mariaro
2 (phonetic)?
3 A No.
4 Q Do you know Teresa Mataragus (phonetic)?
5 A No.
6 Q Lewis and Adele McVellin -- I'm sorry, McVain
7 (phonetic)?
8 MR. ETRA: Again. I'm sorry.
9 MR. SAMUELS: McVain.
10 MR. ETRA: And you said Adele McVain.
11 BY MR. SAMUELS:
12 Q Lewis and Adele, do you know either of them?
13 A No, sir.
14 Q How about Greg or Beth Powell?
15 A I met Greg Powell once.
16 Q Where do you recall meeting him?
17 A In his office.
18 Q When?
19 A When I went there to meet with Sullivan and
20 Powell, RE: the upcoming income tax audit, to meet them.
21 Q Okay. Did you ever discuss with Greg or Beth
22 Powell investing in Madoff or Bernie Madoff at all?
23 A No.
24 Q Do you know Edith Rosen?
25 A No.

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1 Q Gertrude Gordon?
2 A No.
3 Q Have you ever heard of a foundation called
4 Kelco Foundation?
5 A Yes.
6 Q And what is Kelco Foundation?
7 A I don't know.
8 Q You've heard of it. Do you know anything --
9 do you know anyone who's involved in it or what it does?
10 A I heard it from Monsignor Kelly.
11 Q And what do you know about it?
12 A Really, nothing.
13 Q Have you ever directly or indirectly made any
14 contribution to the Kelco Foundation?
15 A No.
16 Q Johnny Mulchin (phonetic), have you ever met
17 him?
18 A Johnny Mulchin?
19 Q Correct.
20 A No.
21 Q Nicolas or Marry O'Gorman (phonetic)?
22 A O'Gorman. No.
23 Q Joseph Spazio (phonetic)?
24 A No.
25 Q St. Thomas Aquinas Trust.

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1 A Trust?
2 Q Trust.
3 A No.
4 Q Over the years, is it fair to say that you've
5 donated substantial sums of money to various Catholic
6 charities and organizations?
7 A It would be fair to say that.
8 Q Okay. And is there currently -- is there
9 something called the Bienes Center for the Arts at
10 St. Thomas Aquinas High School?
11 A Yes, there is.
12 Q And is that named for you and Dianne Bienes?
13 A Yes.
14 Q Okay. Have you ever notified the high school
15 that the money that you used to receive -- to -- strike
16 that.
17 Did you donate money to St. Thomas Aquinas
18 High School in order to have your name --
19 MR. ETRA: Objection.
20 MR. SAMUELS: -- on the Arts Center? Strike
21 that.
22 BY MR. SAMUELS:
23 Q How did it come that the -- how -- how did
24 your name come on to the Center for the Arts of
25 St. Thomas Aquinas High School?

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1 A How did my name come on?
2 Q Yeah. Who suggested it? Was it because you
3 donated money? Did somebody make a recommendation? How
4 did it happen?
5 A I would assume it was because I donated money.
6 Q Okay. And -- okay. And have you had any
7 discussions with anyone at St. Thomas Aquinas High
8 School, about the fact that the money that you donated
9 to put on the Bienes Center was money that you received
10 from a Ponzi scheme in which others have lost millions
11 and millions of dollars?
12 A I don't understand your question.
13 Q Yeah. The money that you had put on -- to
14 give to St. Thomas Aquinas High School, came from the
15 money you made through investments in Bernie Madoff,
16 correct?
17 A Correct.
18 Q Okay. And you're aware that Bernie Madoff was
19 running a Ponzi scheme?
20 A I was aware that Bernie Madoff was running a
21 Ponzi scheme the day Bernie Madoff announced to the
22 world that he was running a Ponzi scheme.
23 Q And you didn't know before that?
24 A Absolutely not.
25 Q Okay. And over the years, how much money did

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1 you make from your investments with Bernie Madoff?
2 A I have no idea.
3 Q Hundreds of millions of dollars?
4 A That would seem very high.
5 Q Okay. So you understand that there were a lot
6 of innocent people who lost a lot of money in the Ponzi
7 scheme, correct?
8 A Take out the word "innocent," and I'll say
9 yes.
10 Q Okay. So you understand a lot of people lost
11 money in the Bernie Madoff Ponzi scheme?
12 A Including us.
13 Q Okay. So your losses were not as a result of
14 your being innocent?
15 MR. ETRA: Objection.
16 MR. SAMUELS: You said "take out the word
17 'innocent.'"
18 I said, "a lot of innocent people." You don't
19 believe a lot of innocent people lost money --
20 THE WITNESS: What do you mean by "innocent"?
21 BY MR. SAMUELS:
22 Q People who engaged in no wrongdoing.
23 A Who did what?
24 Q Who didn't do anything wrong, other than
25 invest money with Bernie Madoff.

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1 A That's us.
2 Q So your claim is that you did nothing wrong
3 and you're just a victim of the Ponzi scheme?
4 A Yes.
5 Q Okay. How much money did you -- did you have
6 directly or indirectly with Bernie Madoff at the time
7 that the Ponzi -- it became known there was a Ponzi
8 scheme?
9 A I don't remember or recollect.
10 Q Approximate amount?
11 A Multi millions.
12 Q Multi millions could be two million or it
13 could be a hundred million. Could you give me a better
14 estimate, please?
15 A I will try, but it's only an estimate. If you
16 go in around 50 to 60, you'd be there. It could be a
17 little more or less.
18 Q There is also the Michael and Dianne Bienes
19 Comprehensive Care Center at the Holy Cross Hospital
20 named after you, correct?
21 A Correct.
22 Q And is that named after you and your wife, as
23 a result of charitable contributions made to the
24 hospital?
25 A Yes.

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1 Q Okay. And have you had any discussions with
2 anyone at Holy Cross at all, about the fact that the
3 money that you donated to the Comprehensive Care Center
4 at Holy Cross Hospital, came from money that you
5 received from a Ponzi scheme in which many people lost
6 millions and millions of dollars?
7 MR. ETRA: Objection.
8 THE WITNESS: No.
9 BY MR. SAMUELS:
10 Q Now, is it true that you donated money to the
11 Broward Center for the Performing Arts?
12 A Yes.
13 Q And is your name on the wall or displayed at
14 the Broward Center for Performing Arts?
15 A I believe it is.
16 Q Okay. You and your wife?
17 A I believe it is.
18 Q And again, that money came from your making
19 money on investments in Bernie Madoff, correct?
20 A Yes.
21 Q Okay. And did you ever have any discussions
22 with anyone at the Broward Center for Performing Arts,
23 to tell them that the money that you provided to them
24 came from money that you made on a Ponzi scheme, in
25 which people lost millions and millions of dollars?

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1 A No.
2 Q Okay. Let's continue on with some names here.
3 Nicolas or Mary O'Gorman, do you know who they are?
4 MR. WOODFIELD: Asked and answered.
5 MR. SAMUELS: Okay. Thank you. Joseph --
6 MR. WOODFIELD: You did him, too.
7 MR. SAMUELS: Okay. I got it. I got it. I'm
8 in my place.
9 BY MR. SAMUELS:
10 Q Joseph T. Stash (phonetic). Do you know who
11 that is?
12 A No.
13 Q Ellen Ziffer?
14 A Elaine Ziffer?
15 Q Elaine Ziffer. Thank you.
16 A Yes.
17 Q And how do you know Elaine Ziffer?
18 A We were, at one time, friends -- friendly and
19 friends with her.
20 Q Socially?
21 A Socially, yes.
22 Q Okay. And during what time period?
23 A The '90s.
24 Q Okay. And was Ms. Ziffer directly or
25 indirectly an investor in Avellino & Bienes?

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1 A I don't know.
2 Q Okay. Did -- did you refer Ms. Ziffer to
3 Michael Sullivan or any of his entities, to enable her
4 to invest in Madoff?
5 A No.
6 Q Did you ever, at any time, become aware of the
7 fact that Ms. Ziffer, directly or indirectly, invested
8 in Michael Sullivan or one of his entities?
9 A No.
10 Q James and Valerie Judd, do you know either of
11 them?
12 A Yes.
13 Q And how -- do you know them both?
14 A Yes.
15 Q And how do you know them?
16 A We were involved, at one time, with the then
17 Florida Philharmonic Orchestra.
18 Q During what time were you involved in the
19 Florida Philharmonic Orchestra?
20 A Again, I can't -- like the '90s or something.
21 I don't know. I just don't.
22 Q Okay. Do you recall referring either Michael
23 or Valerie Judd to Michael Sullivan to invest?
24 A I never did.
25 MR. SAMUELS: Okay. Let's mark this as

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1 exhibit --
2 COURT REPORTER: Thirty-three.
3 MR. SAMUELS: Thirty-three.
4 (Plaintiffs' Exhibit No. 33 was marked for
5 identification.)
6 BY MR. SAMUELS:
7 Q Okay. I'm showing you Defendant James Judd's
8 notice of serving objections and answers to plaintiffs'
9 first set of interrogatories, in the case of Philip J.
10 Von Kahle versus Jannet A. Hooker charitable Trust.
11 And I'd like to show you first on page 4,
12 where James Judd indicates he had numerous conversations
13 with you regarding the Florida Philharmonic, as you are
14 on one of the boards. One conversation, the Judds were
15 family and could become investors in S&P, although you
16 would not normally qualify.
17 Do you recall having a discussion -- and does
18 this refresh your recollection in any way -- with James
19 Judd, indicating to him that he could invest in S&P or
20 P&S or one -- or through Michael Sullivan?
21 A I never did.
22 Q So your -- what you're saying here is that
23 James Judd's recollection and sworn testimony is
24 incorrect?
25 MR. ETRA: Objection.

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1 THE WITNESS: I am saying I never did.
2 BY MR. SAMUELS:
3 Q Okay. Let's go to the next page.
4 "Question: State all the facts and/or
5 circumstances that led to any investment by you and
6 S&P."
7 MR. WOODFIELD: What number is that?
8 MR. SAMUELS: On page 5, question 5.
9 MR. WOODFIELD: Thanks.
10 BY MR. SAMUELS:
11 Q "Answer: See answer to interrogatory four as
12 to recommendation of Michael Bienes, which I relayed to
13 Valerie. Other board members spoke highly of Michael
14 Bienes' recommendations." Do you see that?
15 A Yes, I do.
16 Q So does this refresh your recollection of you
17 invest -- you recommending to -- to James Judd that he
18 invest with Michael Sullivan or one of his entities?
19 A I never did, so it would not refresh anything.
20 Q Did you ever become aware of the fact that
21 Valerie and James Judd invested with Michael Sullivan or
22 his entities?
23 A Yes.
24 Q And when did you first become aware of that?
25 A When he was deposed by you and stuff.

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1 MR. ETRA: Don't -- don't tell him what we --
2 I don't want you -- don't talk about your
3 discussions with me, if that's what you're
4 referring to. I mean, you could reference that it
5 would relate to discussions with counsel, but don't
6 discuss --
7 BY MR. SAMUELS:
8 Q I'm not interested in hearing about your
9 discussions with counsel. But you're indicating you
10 first found out that they were -- that they had invested
11 with Michael Sullivan when you learned of their
12 depositions.
13 A I'm not sure when I learned, but I knew from
14 legal stuff that they were involved.
15 Q Okay.
16 A Don't ask me how.
17 Q Did they ever ask you to assist them in paying
18 money back to S&P or P&S that they owed to the
19 partnership?
20 A No.
21 Q After Madoff -- after his announcement that
22 Madoff was a Ponzi scheme, did they ever discuss with
23 you the fact that they were invested in Madoff or lost
24 money in Madoff?
25 A No.

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1 MR. SAMUELS: Okay. What number?
2 MR. WOODFIELD: Thirty-four.
3 MR. SAMUELS: Thirty-four. All right.
4 (Plaintiffs' Exhibit No. 34 was marked for
5 identification.)
6 (Discussion held off the record.)
7 VIDEOGRAPHER: We need a break in about five
8 minutes.
9 MR. SAMUELS: What did you say?
10 MR. WEBER: He said he'll need to break.
11 VIDEOGRAPHER: I'm going to need to break in
12 about five minutes.
13 MR. SAMUELS: That may be a good time for
14 lunch, anyway, so.
15 BY MR. SAMUELS:
16 Q Okay. I'd like to show you what's been marked
17 as Exhibit 4, which are the -- Valerie Judd's answers to
18 interrogatories. And if we can go now to page four. At
19 the bottom. Valerie Judd indicates as to you, you had
20 numerous conversations regarding the Philharmonic in our
21 wedding. Do you recall having conversation -- were you
22 at their wedding?
23 A Yes.
24 Q Okay. So you were friends with them?
25 A At one time, yes.

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1 Q Okay. And did you go to other social events
2 with them, more charitable events with them?
3 A Yes.
4 Q How frequently?
5 A Over the years, numerous.
6 Q Okay. And over the years, let's talk about
7 the 1990s and up until 2008, when Bernie Madoff became a
8 Ponzi scheme publicly, did you have charitable events
9 and fundraisers at your home?
10 A Yes.
11 Q How often? Frequently?
12 A "Frequently" is a broad term. Let's say
13 numerous over the years.
14 Q You also attended numerous charitable events
15 around the community over the years?
16 A Yes.
17 Q In particular, in relation to St. Thomas and
18 various Catholic charities and the Philharmonic and the
19 Broward County Performing Arts Center and Holy Cross,
20 among others?
21 A Yes.
22 Q Okay. Are there any other charities in which
23 you are actively involved, not just writing a check but
24 actively involved, that we haven't gone over yet?
25 MR. ETRA: Objection.

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1 THE WITNESS: Miami City Ballet.
2 MR. SAMUELS: Okay.
3 THE WITNESS: Florida Grand Opera, Broward
4 County Public Library, African American Research
5 and Cultural Center, Archbishop McCarthy High
6 School, Pine Crest School. That's all I can --
7 MR. SAMUELS: Okay.
8 THE WITNESS: -- reasonably give you now.
9 BY MR. SAMUELS:
10 Q Going back to the answers to interrogatories
11 and before we take a break, Valerie Judd, number five,
12 indicates the same thing that her husband indicated in
13 his answers to interrogatories. "State all facts and
14 circumstances that led to any investment by you in S&P."
15 And the answer is: "Investment was made when
16 James told me of Michael Bienes' advice."
17 A Wait a minute. Where are you, sir?
18 Q Number five on the very top of page 5.
19 A Yeah. "Investment was made when James told
20 me" -- yeah, I see that.
21 Q Okay. Do you agree with that statement of
22 Valerie Judd, that they invested with Michael Sullivan
23 or one of his entities based upon your advice?
24 A Not at all.
25 Q Okay. Do you know a gentleman by the name of

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1
2 CERTIFICATE OF OATH
3 THE STATE OF FLORIDA
4 COUNTY OF BROWARD
5
6
7 I, the undersigned authority, certify that
8 MICHAEL BIENES personally appeared before me and was
9 duly sworn.

10
11 Dated this 10th day of September, 2015.
12
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25

Gabrielle Cardarelli, RPR, FPR
Notary Public - State of Florida

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1 Julian Kreeger?
2 A I've heard the name.
3 Q Have you had any discussions with him
4 recently?
5 A No.
6 Q Okay. So you just heard the name? You
7 don't -- you're saying you don't know him?
8 A Personally?
9 Q Uh-huh.
10 A No.
11 Q Okay. We need to change a tape and it's ten
12 after 12 and we have food here. All those things
13 combined, it's probably a good time to take a lunch
14 break, okay? Does that work with everybody?
15 MR. ETRA: Yes.
16 MR. SAMUELS: Okay.
17 VIDEOGRAPHER: We are off the record at 12:08
18 p.m.
19 (Thereupon, a recess was taken from 12:08 p.m.
20 to 12:52 p.m.)
21 (Proceedings continued on Volume 2.)
22
23
24
25

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1 CERTIFICATE
2 THE STATE OF FLORIDA
3 COUNTY OF BROWARD
4
5

6 I, Gabrielle Cardarelli, Florida Professional
7 Reporter and Notary Public in and for the State of
8 Florida at large, do hereby certify that I was
9 authorized to and did report said deposition in
10 stenotype; and that the foregoing pages are a true
11 and correct transcription of my shorthand notes of
12 said deposition.

13 I further certify that said deposition was
14 taken at the time and place hereinabove set forth and
15 that the taking of said deposition was commenced and
16 completed as hereinabove set out.

17 I further certify that I am not attorney or
18 counsel of any of the parties, nor am I a relative or
19 employee of any attorney or counsel of party connected
20 with the action, nor am I financially interested in the
21 action.

22 The foregoing certification of this transcript
23 does not apply to any reproduction of the same by any
24 means, unless under the direct control and/or direction
25 of the certifying reporter.

Dated this 25th day of September, 2015.

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35

Gabrielle Cardarelli, RPR, FPR

Michael Bienes

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DEPOSITION ERRATA SHEET

Our Assignment No. 22282

Case Caption: P&S Associates v. Michael D. Sullivan

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

Signed on the _____ day of _____, 20__.

MICHAEL BIENES

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DEPOSITION ERRATA SHEET

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SIGNATURE: _____ DATE: _____

MICHAEL BIENES

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DEPOSITION ERRATA SHEET

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IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA
CASE No.12-034123(07)

P&S ASSOCIATES, GENERAL PARTNERSHIP,
a Florida limited partnership, et al.,

Plaintiffs,

-vs-

MICHAEL D. SULLIVAN, et al.,

Defendants.

DEPOSITION OF MICHAEL BIENES
VIDEOTAPED

VOLUME II
PAGES 85 - 215

Thursday, September 10, 2015
12:52 p.m. - 4:50 p.m.

Berger Singerman LLP
One Town Center Road
Suite 301
Boca Raton, Florida 33486

Reported By:
Gabrielle Cardarelli, FPR, RPR
Notary Public, State of Florida
Esquire Deposition Services
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ALSO PRESENT:

BRIAN TERRINONI - VIDEOGRAPHER
PHIL VON KAHLE
FRANK AVELLINO

EXHIBITS

NUMBER	DESCRIPTION	PAGE
PLAINTIFFS' EX. 35	LETTER	11
PLAINTIFFS' EX. 36	PAYMENTS ON BEHALF OF AVELLINO AND BIENES	14
PLAINTIFFS' EX. 37	PBS.ORG PRINTOUT	89
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PROCEEDINGS

Deposition taken before Gabrielle Cardarelli,
Registered Professional Reporter and Notary Public in
and for the State of Florida at Large, in the above
cause.

(Proceedings continued from Volume I.)

VIDEOGRAPHER: Beginning disk number two. We
are back on the record at 12:52 p.m.

BY MR. SAMUELS:

Q Good afternoon. I want to go back and talk
about the Judd's interrogatory answers, where they say
that you referred him to Sullivan or S&P and P&S. Is it
possible that you're mistaken about that, when you say
that you didn't refer them?

A Anything is possible, but I'm sure in this
case I never did.

Q In terms of the Judds, you mentioned you were
at their wedding; is that right?

A Yes. I attended their wedding.

Q And did you, in fact, walk Valerie Judd down
the aisle at her wedding?

A I don't remember doing that.

Q Do you recall giving the keys to your Ferrari

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to James Judd on occasion, to allow him to drive it?

A Yes.

Q And do you recall James Judd playing piano at
your house at parties?

A As an entertainer?

Q Do you recall him playing the piano at your
house, at charitable functions?

A I don't recall it specifically, no.

Q And if Mr. Judd were to say that he, in fact,
did play the piano at your house during charitable
functions, would you agree that he could be right about
that?

A If he said so. And since I don't recollect,
of course he could be right.

Q Okay. Now I want to talk to you about S&P and
P&S. You -- well, actually, before I do that, do you
know someone by the name of Vonia Duarte?

MR. ETRA: I'm sorry. Could you spell that or
something?

MR. SAMUELS: V-O-N-I-A Duarte.

THE WITNESS: No.

BY MR. SAMUELS:

Q You don't know Ms. Duarte?

A I don't know Duarte.

Q Is she maybe your housekeeper or --

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1 A Never had a housekeeper by that name.
2 Q Okay. So you don't recall referring
3 Ms. Duarte in to -- in to -- over to Mr. Sullivan?
4 A I don't recall Ms. Duarte.
5 Q Do you keep an e-mail account?
6 A Yes, sir.
7 Q And what is your e-mail address?
8 A Michaelbienes@AOL.com.
9 Q And how long have you maintained that e-mail
10 address?
11 A I got my first computer in '07. And I -- we
12 signed up for AOL and I've had that address ever since.
13 Q Okay. And do you maintain all of your
14 e-mails?
15 A Maintain?
16 Q Yeah. Do you keep them? Do you keep your
17 e-mails?
18 A No.
19 Q Or do you have a practice of deleting them?
20 A I delete them.
21 Q How often do you delete them?
22 A Sometimes daily.
23 Q Okay. And if you -- have you been deleting
24 e-mails routinely and sometimes daily, since 19 -- since
25 2007?

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1 A Yes.
2 Q Okay. And you maintain that through today?
3 A Yes.
4 Q Okay. Do you share that e-mail address with
5 anybody or is it just yours?
6 A It's just mine.
7 Q Okay. And does your wife have an e-mail
8 address?
9 A Yes.
10 Q And what is her e-mail address?
11 A Dmbienes@AOL.com.
12 Q And what -- how long have you had your current
13 computer?
14 A I don't have a computer anymore. I mean, I
15 have one but it's in the closet.
16 Q Do you not use a computer?
17 A I have a tablet.
18 Q Oh, okay.
19 A iPad.
20 Q Okay. And how long have you had your iPad?
21 A Oh, say about a little over three years,
22 estimated.
23 Q Okay. And the hard drive for your computer is
24 in your closet, as well?
25 A The computer is in the closet.

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1 Q Right. Okay. Just -- all right. And the
2 computer in the closet, is it a desktop or a laptop?
3 A Laptop.
4 Q Okay. And what make is it, do you know?
5 A I think Sony.
6 Q In terms of -- in terms of your being -- of
7 your involvement in the church, I understand you were
8 knighted by the Catholic church; is that right?
9 A I received a knighthood from the Holy Father.
10 Q And when was that?
11 A There were three ranks: The first rank, the
12 first time, I can't remember the year. It could have
13 been in the 1990s, but I'm very vague on the date and
14 time.
15 Q And were you born Catholic or did you convert
16 to Catholicism?
17 A I converted.
18 Q And when did you convert?
19 A I believe 1983. That's -- I think.
20 Q Okay. And you said you were -- you talked
21 about a knighting. Were there three stages in which you
22 were involved?
23 A Yes, sir.
24 Q And you said the first one was in the 1990s --
25 was very vague. Tell me about the other stages.

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1 A Same thing. You get a letter, something; you
2 go to the cathedral and you are elevated. That's the
3 second stage.
4 Q And when was that?
5 A A few years after the first.
6 Q Okay. And what's the third stage?
7 A Third stage is called "con placa" (phonetic),
8 which means, "with star."
9 Q And when was that?
10 A A few short years after the second stage.
11 Q Okay.
12 A I'm sorry about this. I just can't --
13 Q And was Father Vincent Kelly with you during
14 these three stages?
15 A The inauguration, you mean? The installation?
16 Q You mentioned there were three stages.
17 A Yeah, knighthood was --
18 Q Was he with you at all three of those stages?
19 A I don't understand the question.
20 Q Okay. You mentioned that something took place
21 in the 1990s. Was that an actual ceremony?
22 A Yes, sir.
23 Q Was it at St. John the Baptist Church?
24 A No.
25 Q Okay. Was Father Kelly present when that

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1 happened?
2 A I vaguely recollect he was, yes.
3 Q Okay. And you said there was a second stage,
4 where you were elevated. Was Father Kelly with you
5 then?
6 A I vaguely recollect he was.
7 Q Okay. And you said there was a third stage,
8 when you got a star?
9 A Con placa.
10 Q A con placa. Was Father Kelly with you then?
11 A I vaguely recollect he was, yes.
12 Q And during this entire process, is it fair to
13 say that Father Vincent Kelly is your spiritual adviser?
14 A That would be a fair statement.
15 Q Okay. And did anything of this involve going
16 to the Vatican?
17 A No.
18 Q Have you ever been received -- have you ever
19 been to the Vatican?
20 A Years ago, outside as a tourist.
21 Q Okay. You were never -- you've never been
22 received at the Vatican as a guest, in light of your
23 being knighted?
24 A No.
25 Q Okay.

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1 MR. SAMUELS: What number are we on?
2 COURT REPORTER: Thirty-five.
3 MR. SAMUELS: We'll mark this as Exhibit 35.
4 (Plaintiffs' Exhibit No. 35 was marked for
5 identification.)
6 BY MR. SAMUELS:
7 Q Okay. I want to show you what's been marked
8 as Exhibit 35. And the first thing I want to ask you
9 is, do you know who Mike McCarthy is?
10 A No.
11 Q Okay. Mr. McCarthy writes a letter saying
12 that last night, Father Vincent Kelly called to say that
13 there's a new group doing the same thing --
14 MR. ETRA: The witness is reading the letter.
15 Could you just let -- give him a minute --
16 MR. SAMUELS: That's fine.
17 MR. ETRA: -- to finish.
18 MR. SAMUELS: Yeah, that's no problem.
19 MR. ETRA: Thank you.
20 MR. WOODFIELD: Again, is this a document
21 that's been previously produced?
22 MR. SAMUELS: First of all, I'm sorry I did
23 not check during the break on the last one, like I
24 mentioned I would. So I owe you a check on that
25 one and this one.

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1 MR. WOODFIELD: The HG?
2 MR. WEBER: That one, yeah. HG, that would
3 have been produced with our production, either E13.
4 MR. WOODFIELD: Like Friday dump?
5 MR. WEBER: No, not like Friday dump. On
6 August 13th.
7 MR. SAMUELS: We'll get back to -- we'll get
8 back to you on it. How's that?
9 MR. WOODFIELD: Fine.
10 BY MR. SAMUELS:
11 Q Okay. Have you had a chance to look at this
12 exhibit?
13 A Yes, sir.
14 Q Okay. So this indicates that Father Kelly
15 called to say there's a new group doing something, the
16 same as Avellino & Bienes. Was Father Kelly a direct or
17 indirect investor in Avellino & Bienes?
18 A I believe he may have been.
19 Q You're not sure?
20 A I am not sure.
21 Q Okay. So he goes on to say, "there's a new
22 group doing something the same as A & Bienes. They work
23 through Madoff investing people." Do you see that?
24 A Yes.
25 Q "And two new people are taking over what is

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1 called a limited partnership. Sullivan and Powell. The
2 two are Michael Sullivan and Greg Powell." Do you see
3 that?
4 A Yes.
5 Q Okay. Then it says: "Father Kelly said he is
6 going to use Sullivan and Powell, himself." You got
7 that?
8 A Yes.
9 Q In the letter? Okay.
10 So he's talking about a new group. So your
11 understanding that the new group, working through Madoff
12 and investing people, that the new group, Sullivan and
13 Powell, was in essence taking the place of the old
14 group, Avellino & Bienes, in terms of enabling people to
15 invest in Madoff?
16 MR. ETRA: Objection to form.
17 THE WITNESS: I have no such understanding.
18 BY MR. SAMUELS:
19 Q Okay. So we now have Father Kelly saying he's
20 going to use Sullivan and Powell. Are you the person
21 that, given your relationship with Father Kelly, as well
22 as your relationship with Madoff, are you the person
23 that recommended to Father Kelly that he invest with
24 Michael Sullivan or one of his entities?
25 A Not to my recollection.

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1 Q Okay. So if Father Kelly were to testify that
2 he learned of Sullivan and his ability to invest in
3 Madoff, through Sullivan or one of Sullivan's entities,
4 and he learned of that from you, you have no reason to
5 dispute that, would you?
6 A If I can't recollect, I can't deny.
7 Q Okay. All right. When did you first become
8 aware of Father Kelly, directly or indirectly, investing
9 with Sullivan or one of Sullivan's entities.
10 A You mean timeframe?
11 Q Yeah.
12 A I have no idea.
13 MR. SAMUELS: What number are we on?
14 COURT REPORTER: Thirty-six.
15 MR. SAMUELS: Exhibit 36.
16 (Plaintiffs' Exhibit No. 36 was marked for
17 identification.)
18 BY MR. SAMUELS:
19 Q So Exhibit 36, the first several pages are,
20 just for the record, identical to what was previously
21 marked as Exhibit 8. And I'd like to go over this
22 Exhibit 36 with you.
23 You were here for Mr. Avellino's deposition
24 yesterday, right?
25 A Yes.

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1 Q And you recall Mr. Avellino testifying that
2 both you and he received payments from S&P, P&S or
3 Michael Sullivan, correct?
4 MR. ETRA: Objection.
5 THE WITNESS: I recall him saying it.
6 BY MR. SAMUELS:
7 Q Okay. And you recall him indicating that
8 those payments were classified as commissions?
9 A I'm sorry. I don't recall.
10 Q Okay. Do you recall the testimony about
11 commissions or management fees being paid to both you
12 and Mr. Avellino?
13 MR. WOODFIELD: Objection.
14 THE WITNESS: I've heard the term but I don't
15 really recollect. It was a long day.
16 BY MR. SAMUELS:
17 Q No. No. I'm talking about -- you don't
18 recollect yesterday?
19 A Yes.
20 Q There's a lot of testimony about -- I'll go
21 through with you now, as well, about payments request by
22 either commissions or management. Do you remember that?
23 A Yes, of course.
24 Q Okay. And if those fees went to you and
25 Mr. Avellino or entities in which you instructed them to

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1 go to; do you recall that testimony?
2 MR. ETRA: Objection.
3 THE WITNESS: Yes.
4 BY MR. SAMUELS:
5 Q Okay. And you don't -- do you have any reason
6 to believe that Mr. Avellino's testimony in that regard
7 under oath was false?
8 A No.
9 Q So you would agree then that you received
10 payments from S&P or P&S or Michael Sullivan, that would
11 be considered either commissions or management fees,
12 correct?
13 MR. WOODFIELD: Objection.
14 MR. ETRA: Objection.
15 THE WITNESS: Would you state the question
16 again?
17 MR. SAMUELS: Sure. Would you read that back,
18 please?
19 (A portion of the record read by reporter.)
20 MR. WOODFIELD: Objection.
21 MR. ETRA: Same.
22 THE WITNESS: No. Not correct.
23 BY MR. SAMUELS:
24 Q Okay. Let's look at the first page of
25 Exhibit 36. It says: "Payments on behalf of Avellino &

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1 Bienes." Do you see that?
2 A First --
3 Q First page, right there?
4 A Yeah.
5 Q Okay. The payments on this page total
6 \$481,162.96. Do you see that?
7 A Yes.
8 Q Okay. And so there's a payment -- this
9 document indicates there's a payment on February 10th,
10 2003, in the amount of 15,000 to FPOM, Inc. What is
11 FPOM, Inc.?
12 A Florida Philharmonic Orchestra Musicians.
13 Q And is that a group in which you were actively
14 involved?
15 A Yes.
16 Q Okay. And what was the level of your
17 involvement?
18 A We created it and ran it.
19 Q Okay. All right. On 2/10/2003, the "we"
20 would be you and your wife?
21 A Yes. Yes.
22 Q Okay. On -- also, on February 10th, 2003, it
23 indicates a payment of \$42,500 to American Friends of
24 Covant Garden, Inc. And it has paren, Bienes, close
25 paren. What is American Friends of Covant -- Covent

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1 Garden, Inc.?
2 A From my knowledge, it was an American-based
3 support group for the Royal Opera House in London.
4 Q And you were involved in that organization?
5 A No.
6 Q Okay. Was it an organization in which you --
7 which you made charitable contributions?
8 A I'm sorry. I don't remember.
9 Q Okay. Do you know if it's an organization
10 which Michael Sullivan was involved or made charitable
11 contributions?
12 A I would have no knowledge of that.
13 Q Okay. Let's go now to Arlington House, LLC.
14 On March 4th, 2004, there's a payment of \$51,836.62 to
15 56 Arlington House, LLC. Open paren, Michael Bienes,
16 close paren. What is Arling -- 56 Arlington House?
17 A Well, it's -- it's an LLC. It's a
18 corporation.
19 Q Do you care to tell me what it is? I didn't
20 ask what form it was.
21 MR. ETRA: Objection. Argumentative.
22 THE WITNESS: 56 Arlington House was our
23 address in London. It was a flat that we had.
24 BY MR. SAMUELS:
25 Q And were you a member of this LLC, 56

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1 MR. ETRA: Objection.
2 MR. SAMUELS: -- at your -- as a referral fee
3 for you referring investors into Michael Sullivan
4 or one of his entities?
5 MR. ETRA: Objection. I thought you were
6 done.
7 THE WITNESS: No.
8 BY MR. SAMUELS:
9 Q Why were these payments made by S&P, P&S,
10 Michael Sullivan or one of his entities?
11 MR. ETRA: Objection.
12 THE WITNESS: I don't know his mind,
13 Mr. Sullivan. I don't know his mind.
14 BY MR. SAMUELS:
15 Q So your answer is you do not know why these
16 payments were made?
17 A I could guess.
18 Q And your guess is what?
19 A Well, you showed me a letter that accompanied
20 a check. It was to support Dianne and my charitable
21 interests.
22 Q Okay. And why would Michael Sullivan be
23 supporting Dianne and your charitable interests?
24 A That letter gives you a hint.
25 Q Well, I'm asking you.

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1 Arlington House?
2 A I would assume I am.
3 Q Okay. And were there any other members of 56
4 Arlington House?
5 A I would think my wife.
6 Q Okay. And 56 Arlington House is not a
7 charitable entity, right? It's an owner of real estate?
8 A Two parts. It is not a charitable entity. It
9 owns no real estate.
10 Q Okay. It lets -- what did you say, again?
11 A It is not a charity. It owns no real estate.
12 Q Right. But what did you say it did, again? I
13 thought you said it's an address in London.
14 A Yes.
15 Q Okay. What is its purpose?
16 A To pay the rent on that flat.
17 Q Okay. And did you -- have you and your wife
18 spent time at that flat?
19 A Yes.
20 Q Now, would you agree that these payments on
21 behalf of Avellino & Bienes -- and we'll just focus on
22 the ones to Bienes: To FPOM Inc., to 56 Arlington
23 House, LLC; and to American Friends of Covent Garden,
24 Inc., were made by S&P or P&S or Michael Sullivan or one
25 of his entities?

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1 A Well, again, I don't know his mind as to the
2 why.
3 Q Okay.
4 A Ask him.
5 Q Well, surely, you were aware of payments going
6 to Arlington House, LLC; and surely, you were aware of
7 payments going to FPOM, Inc., a charity which you
8 created and ran, correct?
9 MR. ETRA: Objection.
10 THE WITNESS: I am aware that from these
11 documents that these payments --
12 BY MR. SAMUELS:
13 Q Forget about the documents for a second, sir.
14 Okay? You created and opened FPOM, Inc., right?
15 MR. ETRA: Objection.
16 THE WITNESS: We didn't own it.
17 BY MR. SAMUELS:
18 Q I'm sorry. You created and ran FPOM, Inc.,
19 right?
20 A Yes. Yes.
21 Q And there's a check received for \$15,000 from
22 Michael Sullivan or S&P or P&S or one of his entities,
23 correct?
24 MR. ETRA: Objection.
25 MR. SAMUELS: Yes?

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1 THE WITNESS: I don't remember getting it.
2 BY MR. SAMUELS:
3 Q You don't remember getting any money from
4 Michael Sullivan or one of his entities for FPOM?
5 A I can't recollect.
6 Q So your testimony is, A, you don't remember
7 getting it and, B, you don't know why he would have made
8 the payment?
9 MR. ETRA: Objection as to form.
10 MR. SAMUELS: Is that right?
11 THE WITNESS: No, it's not.
12 BY MR. SAMUELS:
13 Q Well, tell me why were you getting payment?
14 Why was FPOM getting payment?
15 A It's a charity.
16 Q Why was it receiving a payment from Michael
17 Sullivan or one of his entities?
18 A To support our charitable interests.
19 Q And did you thank him for that?
20 A Personally?
21 Q Personally.
22 A No.
23 Q Okay. So you got a \$15,000 check and you
24 didn't thank him? In fact, you don't even remember
25 getting it?

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1 MR. ETRA: Objection.
2 MR. SAMUELS: Is that right?
3 THE WITNESS: I don't remember specifically
4 opening an envelope and seeing a check, no.
5 BY MR. SAMUELS:
6 Q Do you remember getting a charitable
7 contribution from Michael Sullivan or any of his
8 entities to FPOM?
9 A I just answered. No.
10 Q Okay. Same question as to American Friends of
11 Covent Gardens. Do you recall receiving a check for
12 \$42,500 from Michael Sullivan or one of his entities?
13 A American Friends of Covent Garden?
14 Q Yeah.
15 A He would have sent it there, wouldn't he?
16 Q Okay. Were you aware -- were you aware of
17 that?
18 A I don't know at this time.
19 Q Did you instruct him or request that he send
20 it?
21 A I may have.
22 Q Okay. And why would you be requesting Michael
23 Sullivan to send a check to American Friends of Covent
24 Gardens?
25 A He wanted to support our charitable interests,

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1 and the Royal Opera House in London was one of our
2 charitable interests.
3 Q Now, were you friends or business associates
4 with Michael Sullivan in 2003?
5 A Friends, no. Business associates, no.
6 Q So what is it about your relationship with
7 Michael Sullivan that would cause him to want to support
8 one of your charities that you support, to the tune of
9 \$42,500?
10 A Again, I don't know his mind.
11 Q So you don't recall having -- you said you may
12 have requested that he did it, right?
13 A Where to send it.
14 Q Okay. And so what is it about your
15 relationship with S&P or P&S or Michael Sullivan that
16 would cause him to want to support one of your
17 charities?
18 A I had no relationship with S&P and P&S.
19 Q Or Michael Sullivan?
20 A Or Michael Sullivan. People give.
21 Q So let's now talk about the money that he gave
22 that was not to a charitable organization. And it says
23 that it's on your behalf. And that's the Arlington
24 House. You mentioned Arlington House is not a charity.
25 It received payments of \$81,616 and \$62,804. That's

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1 over \$140,000, right?
2 MR. ETRA: Objection.
3 THE WITNESS: Whatever you say.
4 BY MR. SAMUELS:
5 Q No. It's not what I say, sir. I'm asking you
6 a question.
7 A Eighty-one -- six -- it's saying 81 --
8 MR. SAMUELS: And 62 is over \$140,000,
9 correct?
10 THE WITNESS: And 62?
11 MR. SAMUELS: Yes. And if you look on your
12 check of January 16th, 2008 --
13 THE WITNESS: Oh, 2008. Okay. January 16th,
14 yeah. 62,804.49.
15 MR. SAMUELS: Okay.
16 THE WITNESS: Yeah.
17 BY MR. SAMUELS:
18 Q So over \$140,000, correct?
19 A That's what it says.
20 Q Okay. Sir, now we're not talking about a
21 charity, because you just testified that 56 Arlington
22 House was not a charity. So what is it that caused
23 Michael Sullivan or one of his entities to send the
24 Arlington House over \$140,000?
25 MR. ETRA: Objection.

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1 MR. SAMUELS: 56 Arlington House.
2 THE WITNESS: I don't know.
3 BY MR. SAMUELS:
4 Q So he's making payments of \$140,000 to an
5 entity that's established for the purpose of paying rent
6 on your flat, and you don't know why he's doing it? Is
7 that what your testimony is?
8 A To support my charitable interests.
9 Q Arlington House is not -- you just testified,
10 under oath, 56 Arlington House is not a charity,
11 correct?
12 A Correct.
13 Q So how is it that Michael Sullivan is
14 supporting your charitable interests, by paying money to
15 an LLC that is established to pay rent on a flat owned
16 by you and your wife?
17 A Perhaps tax purposes, on his behalf.
18 Q Okay. So you're formerly a CPA, you worked
19 for the IRS and tax is your specialty. Can you explain
20 to me what tax benefit Michael Sullivan would have by
21 paying over a hundred -- or his entities would have by
22 paying over \$140,000 to 56 Arlington House, LLC, which
23 is not charitable, and is set up to pay the rent on a
24 flat for you and your wife?
25 A I don't know how he treated it on his books.

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1 You said the term "consulting and fees." He may have
2 classified it as that on his books to get a
3 charitable -- to get a tax deduction. A tax deduction
4 that he might not otherwise be able to utilize if he
5 gave it directly to one of my charities. I'm only
6 giving you a hypothesis, without having the numbers and
7 the facts.
8 Q If Michael Sullivan were to call it a
9 commission or a referral fee, is that in fact what that
10 is?
11 A It is not.
12 Q Okay. It is not a commission or referral fee?
13 Is it a management fee?
14 A It is not.
15 Q Okay. So Michael Sullivan paid an LLC set up
16 to pay rent for you in a flat in London so that he can
17 get a tax benefit?
18 MR. ETRA: Objection.
19 BY MR. SAMUELS:
20 Q Is that what you're saying, sir? Is that what
21 you're telling the jury?
22 A He's calling it a "commission;" he would get a
23 tax deduction, wouldn't he? He's calling it a
24 "consulting fee"; he would get a tax deduction, wouldn't
25 he? He's calling it whatever he's calling it; he would

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1 get a tax deduction, unless the IRS --
2 Q How did he know to make the payment to 56
3 Arlington House?
4 A Somehow, I must have forwarded that
5 information to him, but I don't know at this point how.
6 Q And you would have forwarded the information
7 to him to enable him to pay -- to make a payment to 56
8 Arlington House, LLC?
9 A Just the name.
10 Q To enable him to make a payment to 56
11 Arlington House, LLC?
12 A Yes.
13 Q Okay. And why would you have wanted him to
14 make a payment to 56 Arlington House, LLC, which is an
15 LLC set up to pay rent on your flat?
16 A Flip the script. I didn't want him to. He
17 wanted to.
18 Q And you were comfortable with him doing that?
19 A No.
20 Q So why did you send him the information?
21 A Because I wanted the money for my charitable
22 interests.
23 Q So did 56 Arlington House, LLC make charitable
24 contributions with that money?
25 A No.

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1 Q Okay. What did 56 Arlington House, LLC
2 classify the payment as?
3 A I believe, vaguely, miscellaneous income.
4 Q Did Mr. Sullivan ever tell you that he
5 intend -- he and one of his entities was going to be
6 making the payment at 56 Arlington House, LLC, so he
7 could support your charitable work?
8 A That was the understanding.
9 Q Okay. And so why didn't he just send it to
10 the charity?
11 A Exactly.
12 Q Why didn't he?
13 A For reasons known to him, he didn't want to.
14 Q Do you have your returns for Arlington House,
15 LLC?
16 A Oh, no. No.
17 Q So if Mr. Sullivan were to testify that these
18 payments were made on your request, to pay you
19 commissions for referring business to S&P and P&S, are
20 you saying that he would be lying under oath?
21 MR. ETRA: Objection.
22 THE WITNESS: He would be misinformed and
23 mistaken.
24 BY MR. SAMUELS:
25 Q Did 56 Arlington House have other income?

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1 A To my knowledge, no.
2 Q Okay. I'm going to go through some of these
3 documents with you. Let's go now to the third page.
4 And if you look at the bottom, okay, it's going to say
5 A-V-E, in this document, number three, okay?
6 A Okay.
7 Q And this says 56 Arling -- and the one, two,
8 three --
9 A I see it.
10 Q -- the fourth entry?
11 A Uh-huh.
12 Q It says 56 -- well, let's go to the fifth one:
13 27 Cliff, LLC; Republic Bank; commission, Frank
14 Avellino. Do you see that?
15 A Yes, sir.
16 Q Do you remember Mr. Avellino testifying, in
17 fact, that it was a commission that he received?
18 MR. WOODFIELD: Objection.
19 THE WITNESS: I remember him saying something
20 like that.
21 BY MR. SAMUELS:
22 Q Okay. And so now, you have 56 Arlington
23 House, LLC; commission, Michael Bienes. Do you agree
24 that this was a commission payment for you?
25 A I do not.

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1 Q So you don't agree with Michael Sullivan, you
2 don't agree with Frank Avellino. You have a different
3 way of looking at this than they do?
4 MR. WOODFIELD: Objection.
5 MR. SAMUELS: Is that right?
6 THE WITNESS: I look at it as it is.
7 BY MR. SAMUELS:
8 Q Okay. And as it is, I'm looking at it. It
9 says "commission." So you're looking at it as it is in
10 what manner?
11 MR. ETRA: Objection.
12 THE WITNESS: I have no control over what he
13 puts on his books and records, or what he calls any
14 particular expenditure.
15 BY MR. SAMUELS:
16 Q So let me ask something: How did he -- how
17 did Michael Sullivan send you money to 56 Arlington to
18 support your charitable endeavors, if 56 Arlington is
19 set up to pay rent on your flat?
20 A Bear with me. Money is spongeable. If he had
21 not, we would have had to fund 56 Arlington out of our
22 own personal funds from somewhere else so that there
23 would be money there to pay the rent. By him putting it
24 there, that money somewhere else was literally freed up.
25 And I would make sure that that freed-up money would be

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1 used for charitable purposes, because I felt morally
2 obligated to do so.
3 All it was was bookkeeping, back and forth.
4 But money is money. It does not matter.
5 Q Let's go to the page on the bottom that says
6 four. So we have the sixth entry on that page: 56
7 Arlington House, \$81,616.87. Let me ask you something.
8 If a charitable -- if he's making a payment to be
9 charitable for you, do you know why he's using -- why
10 he's not just using a round number? Like the first
11 payment was \$15,000. Why is he using a number of
12 \$80,616.87? Isn't that odd to do, to make a charitable
13 donation?
14 A But he wasn't making on his books a charitable
15 contribution. For his books' sake and for the
16 reflection of the Internal Revenue, he was paying a
17 commission.
18 Q Isn't it more beneficial for him to just make
19 an outright charitable contribution than make a
20 commission payment?
21 A I don't know. I don't know his tax status,
22 his books or even the current law.
23 Q Okay. Okay. Let's continue on.
24 A You left a question hanging.
25 Q Well, you can answer it.

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1 A Why was it an odd number? Many times, when I
2 was in practice, I would say to a client who was writing
3 out a check for something and calling it something else,
4 "Don't use round numbers." A commission check would
5 look better with dollars and cents.
6 Q So you're telling me, as a CPA, you would
7 sanction people not using round numbers, to make it look
8 like something other than what it was?
9 A I never said that.
10 Q Sounds that way to me. Okay.
11 A Well, it's not to me. You asked me a
12 question. I said -- that's what people will sometimes
13 do, and I would recommend it if it's something that they
14 want to do.
15 Q So you're recommending that people not use
16 round numbers so they don't get caught by the IRS?
17 A No. I did not say that.
18 Q Okay. Let's continue on. Now, on the bottom,
19 if you go to page 26. Okay. Page 26. It says: "S&P
20 management fees to A & B." Do you recall receiving
21 management fees from S&P or P&S or Michael Sullivan or
22 any entity relating to them?
23 A Are you referring to the other numbers, the
24 other checks?
25 Q At all, do you recall receiving management

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1 fees from S&P or P&S or Michael Sullivan or any entity
2 in which Michael Sullivan was involved?
3 A No.
4 (Brief interruption.)
5 MR. SAMUELS: Sorry about that. Is the video
6 still going?
7 MR. ETRA: The electricity is working.
8 (Discussion held off the record.)
9 VIDEOGRAPHER: Can we go off the record for a
10 moment?
11 MR. SAMUELS: Okay.
12 VIDEOGRAPHER: Off the record at 1:38 p.
13 (Thereupon, a recess was taken from 1:38 p.m.
14 to 1:46 p.m.)m.
15 VIDEOGRAPHER: Back on the record at 1:46 p.m.
16 BY MR. SAMUELS:
17 Q Okay. Mr. Bienes, we are now on page 26,
18 where it says: "Management fees to A & B" on top. "S&P
19 Associates."
20 A Yes.
21 Q Management fees to A & B. Here it says:
22 "Name: Judd, \$1,321.81." Do you know why a management
23 fee is being paid to you and/or Mr. Avellino in
24 conjunction with Mr. Judd?
25 A No.

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1 Q Okay. Was it your understanding that you and
2 Mr. Avellino were to get management fees from --
3 emanating from clients of S&P, who were referred to S&P
4 by you and/or Mr. Avellino?
5 A No.
6 Q All right. Let's go now to page 30. There
7 is, again, "management fees to A & B." Do you know why
8 a management fee is being calculated for
9 Avellino & Bienes on the books and records of S&P
10 Associates in conjunction with Alves?
11 A Wait a minute. Alves?
12 Q Alves.
13 A Her maiden name is Duarte.
14 Q Okay. And that's the person I asked you about
15 earlier?
16 A Correct.
17 Q And do you know Alves?
18 A Alves.
19 Q Alves.
20 A Yes.
21 Q And who is Alves?
22 A She's a lady who lives in Fort Lauderdale.
23 Q And how do you know her?
24 A She began with us as a domestic employee and
25 was with us for a number of years. And then we gave her

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1 the job of manager of the house and secretary, for lack
2 of a better term.
3 Q Okay. And did you recommend to her that she
4 invest with Michael Sullivan or one of his entities?
5 A Not to my recollection.
6 Q Do you know if your wife did?
7 A I would not know.
8 Q Sir, do you know how your domestic employee,
9 who then became the manager of your house, ended up
10 investing in S&P and then, ultimately, Madoff?
11 A I do not know.
12 Q Okay. So she -- your -- did you ever mention
13 to your -- to Alves --
14 A Alves.
15 Q -- Alves -- did you ever mention to Alves --
16 Alvez. Alves -- that the money -- that -- that you were
17 able to retire early or the money that you had and the
18 lifestyle you had was attributable to the investments
19 that you made in Madoff?
20 A To my recollection, I never had a discussion
21 like that with her.
22 Q Did she know how you made your money, since
23 you had retired at 44?
24 A I wouldn't know, but she knew or thought she
25 knew.

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1 Q Well, did you ever discuss it with her?
2 A I just told you, no.
3 Q And how long did she work for you?
4 A Multiple years, but I don't want to put a
5 number because I can't -- I'm not good with that.
6 Q How did she end up investing with Madoff?
7 A I don't know.
8 Q And you never discussed it with her?
9 A No.
10 Q Have you ever heard of the Hooker Trust?
11 A Not until after this thing began.
12 Q Okay. Do you know why the books and records
13 of S&P Associates show a management fee going to you for
14 the Hooker Trust?
15 A I haven't the slightest idea.
16 Q Okay. Let's go to page 38. Okay. So this
17 mentioned Jordan. Do you know why the books and records
18 of S&P showed management fees going to Mr. Avellino on
19 account of Jordan?
20 A I have no idea.
21 Q Do you know who Jordan is?
22 A I can only guess.
23 Q And who is it?
24 A There's a man in town who I've heard of
25 mentioned in various circumstances called Jim Jordan.

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1 Q Do you know Jim Jordan?
2 A No. No.
3 Q How do you know his name?
4 A As I told you, I heard it mentioned in -- a
5 few times. If you ask me where I heard your name, I
6 could not tell you but I've heard it.
7 Q So you're not sure why you're receiving
8 management fees on behalf of Jordan?
9 MR. ETRA: Objection.
10 MR. WOODFIELD: Objection.
11 THE WITNESS: It is my contention I never
12 received management fees.
13 BY MR. SAMUELS:
14 Q Okay. Go to page 40.
15 A Yes.
16 Q This shows Wills.
17 A Yes.
18 Q Do you know why the books and records of S&P
19 Associates show a management fee to Avellino & Bienes in
20 conjunction with Wills?
21 A I have no idea.
22 Q Do you know who Bishop Wills is?
23 A Yes.
24 Q And how do you know Bishop Wills?
25 A On certain occasions, Frank Avellino would

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1 Q All right. Next, page 50. Seperson. You had
2 mentioned Seperson as being someone who you referred to
3 Mr. Sullivan or his entities, correct?
4 A Yes.
5 Q And do you know if that's why S&P had Seperson
6 as someone who you and Mr. Avellino had received
7 management fees for?
8 MR. ETRA: Objection.
9 MR. WOODFIELD: Objection.
10 THE WITNESS: Would you just clarify? I'm
11 sorry.
12 MR. SAMUELS: Yeah.
13 THE WITNESS: I slipped away, mentally.
14 BY MR. SAMUELS:
15 Q Do you know if the reason why S&P had Seperson
16 listed under management fees to Avellino & Bienes, was
17 because you referred Seperson to Sullivan or Sullivan's
18 entities?
19 A I wouldn't have no knowledge of why the books
20 and records of Sullivan were anything. I never saw
21 them.
22 Q Okay. Do you have knowledge of any of the
23 partners, other than Michael Sullivan, reviewing the
24 books and records of S&P or P&S?
25 MR. ETRA: Objection.

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1 mention his name in a very positive light. I was only
2 once, at a little dinner at Frank's house, and the
3 Reverend Wills and his wife were there. Oh, at his
4 church. I was at Frank and Nancy's wedding and he
5 officiated. I was introduced to him there, again.
6 Yeah.
7 Q Now, we can go to 41. Do you know who Esteban
8 is?
9 A No.
10 Q Do you know why the books and records of S&P
11 show management fees going to you and Mr. Avellino, in
12 conjunction with F. Esteban and M. Esteban?
13 A No.
14 Q Okay. By the way, when -- coming back to the
15 Arlington House, when Mr. Sullivan or one of his
16 entities sent money to the Arlington House in the amount
17 of over \$140,000, did you make any effort to return that
18 money?
19 A When he sent the money to Arlington House --
20 Q Did you, on behalf of Arlington House, make
21 any effort to return the money?
22 A No.
23 Q Okay. So you thought it was money that was
24 appropriately sent to Arlington House?
25 A Yes.

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1 THE WITNESS: Any of the other partners of
2 who, sir?
3 MR. SAMUELS: Of Michael Sullivan's entities
4 ever reviewing the books and records of any of
5 Michael Sullivan's entities?
6 THE WITNESS: No.
7 BY MR. SAMUELS:
8 Q Okay. Let's go now to page 62. Carone
9 Pension. Do you see that?
10 A Yes.
11 Q Do you know any of the Carones?
12 A Yes.
13 Q Who do you know?
14 A I know Matt Carone, his late wife. I forget
15 her name. Oh, my God. I knew his late wife. I knew
16 his son, David. That's who I knew.
17 Q And how do you know Matt Carone?
18 A He was an art dealer with a studio on Las
19 Olas. He was a good friend of James. This, I can do.
20 Every year he would let James and the orchestra have the
21 use of his studio, which was quite big, move in a piano
22 and stuff for a concert fundraiser.
23 One year we went, attended, and he introduced
24 me to Matt. Matt asked us, after we got friendly, to
25 underwrite future concerts at his studio, and we did.

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1 Q Did you ever have any discussion with Matt
2 Carone about Madoff?
3 A Not that I can recollect, no.
4 Q Did you ever recommend to Carone that he
5 invest with Sullivan or any of Sullivan's entities?
6 A I can never -- I cannot recollect doing so,
7 no.
8 Q Okay. Have you heard of an entity called
9 Paragon Ventures?
10 A Not until now.
11 Q Okay. So you have not previously heard of
12 them?
13 A Well --
14 Q In the case?
15 A When this case began, the name popped up in
16 the papers. In your papers.
17 Q Sir, why were you and Bienes [sic.] shown as
18 receiving management fees in connection with Paragon
19 Ventures?
20 A I would not know.
21 Q Do you know a gentleman by the name of Don
22 Lacon (phonetic)?
23 A I knew Don Lacon, yes.
24 Q How did you know Don Lacon?
25 A I think I met him through Matt Carone. And

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1 then when we were living in London, he had an apartment
2 there, too, and we attended a few events together. And
3 I recollect, vaguely, going for lunch with him once,
4 just the two of us.
5 Q And did you ever discuss with Don Lacon the --
6 Madoff or investing in Madoff?
7 A No. Not that I can remember, no.
8 Q Did you ever recommend to Don Lacon that he or
9 any of his entities contact Michael Sullivan in order to
10 enable him to invest in Madoff?
11 A Not that I can recollect, no.
12 Q So let me ask you a question: You've spoken
13 about two people who you recall referring to Michael
14 Sullivan. Is there anybody else you recall referring to
15 Michael Sullivan, who may have chosen not to invest with
16 Sullivan or his entities?
17 A No.
18 Q Do you recall getting -- after -- or during
19 the whole SEC process and after -- with
20 Avellino & Bienes and after Avellino & Bienes shut down,
21 do you recall being contacted by anyone who previously
22 invested with Avellino & Bienes to discuss with you how
23 it is that they could invest in Madoff?
24 A It's a long time ago. I do vaguely remember a
25 few people calling me. I don't know the names. It's

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1 gone. And they said, "What can we do?"
2 And I said, "I have problems of my own."
3 And they said, "Do you think we could call
4 Madoff?"
5 And I remember saying, "he always took my
6 calls. Thank you for the call and goodbye." I wasn't
7 too kind to any of them. I wasn't in a mood to be so.
8 That's it. A handful.
9 Q How many times did you talk to Mr. Madoff,
10 personally, up until the time that the SEC concluded its
11 investigation with the injunction order?
12 A Please clarify the timeframe.
13 Q Okay. Let's talk about while you were working
14 as a CPA.
15 A Oh, this is the whole thing. The whole thing?
16 Q Hold on.
17 A Okay.
18 Q Timeframe: While you were working as a CPA
19 for Avellino & Bienes or its predecessor entity, how
20 often would you talk to Mr. Madoff?
21 A Recollection: Once, maybe twice a year.
22 Q Would that be in person at his office or on
23 the phone?
24 A Sometimes on the phone; infrequently, at his
25 office.

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1 Q How about during the timeframe where
2 Avellino & Bienes was operating as an entity that
3 invested in Madoff and was no longer a CPA firm? How
4 often did you talk with or meet with Mr. Madoff at that
5 time, up until the time of the SEC injunction order?
6 A No more than I originally said.
7 Q Which is how much?
8 A Once or twice a year.
9 Q Okay. And do you recall people from Madoff's
10 operation assisting Avellino & Bienes in putting
11 together books and records or fixing books and records
12 of Avellino & Bienes to provide to the SEC?
13 MR. ETRA: Objection.
14 THE WITNESS: I do not recollect any such
15 thing.
16 BY MR. SAMUELS:
17 Q You've seen those allegations made against you
18 before, right?
19 MR. ETRA: Objection.
20 THE WITNESS: Yes.
21 BY MR. SAMUELS:
22 Q Okay. And do you deny those or you just don't
23 have knowledge of it?
24 A That's a two-prong question. I, personally,
25 deny it vehemently. If it ever happened, and I'm not

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1 saying it did, I would have no knowledge of it.

2 Q Okay. Now, how about the timeframe after --
3 after Avellino & Bienes entered an injunction order from
4 the SEC, and got started in other entities in which you
5 were directly/indirectly investing in Madoff, how often
6 did you speak with or meet with Mr. Madoff between then
7 and 2008 -- December of 2008, when Madoff was exposed as
8 a Ponzi scheme?

9 A Not at all.

10 Q Not at all during that entire timeframe?

11 A Serendipitously, we went for lunch, my wife
12 and I, in London, and when we sat down, the restaurant
13 was fairly empty. It was early on. And my wife looked
14 up across a bunch of tables and said, "that's Bernie
15 Madoff." I looked, and you know how it is when someone
16 stares at you. He looked and saw us.

17 He smiled, got up, walked across some tables.
18 We were sitting in the corner. He grabbed a chair and
19 sat down in front of us. He kissed my wife, handshake
20 to me. "How you doing?"

21 "Fine."

22 "How's Ruth?"

23 "Good."

24 "I don't like this restaurant, but I come
25 here."

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1 found out and told us we must be registered. And if we
2 had been, all would be fine. And look what you've led
3 us into here." And I went on a little bit more.

4 And then he was like sitting back and saying,
5 "All right. That's it. I'm getting a little edgy now.
6 Cut it." And he was Madoff, so I cut it. And when we
7 left, I guess it wasn't on the best of terms.

8 Q Was Mr. Avellino with you?

9 A He was there with his wife.

10 Q Okay. So talking now between -- let's talk
11 about that meeting, all right, which happened during the
12 SEC investigation or after?

13 A I said after.

14 Q Okay. How many times after that meeting did
15 you meet with Bernie Madoff?

16 A None.

17 Q Okay. So there's that, there's the
18 restaurant. Those are the only two times that you met
19 with him, between the time of the SEC investigation
20 until Bernie Madoff becoming -- going public as a Ponzi
21 scheme, in December, 2012?

22 A Yeah. Yes.

23 MR. WOODFIELD: 2008.

24 MR. ETRA: You said '12.

25 MR. SAMUELS: I'm sorry. 2008.

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1 I said, "Well, we do." Thirty seconds more of
2 idle chat, he got up and went back to his table with
3 businessmen in suits. And I said to my wife, "I'll give
4 you ten to one he'll never send over a drink." I won
5 the bet.

6 Q And what made you think he wouldn't send you
7 over a drink? What did you know about him or how did
8 you know him to reach that conclusion?

9 A The few times over the years I went to his
10 office, he never even offered me a glass of tap water.
11 That's why.

12 Q So it's your testimony that between the time
13 of the injunction order and the time that Bernie Madoff
14 was exposed as a Ponzi scheme, in December of 2008, that
15 that was the only time that you met with him in person?

16 A Let's be careful on your dating. I don't know
17 when the day of the order was. I do know that in '93,
18 we had a final meeting.

19 I had a final meeting with Madoff and my wife,
20 Frank Avellino and his wife in Madoff's office. And I
21 do remember that it's in the book. Some guy wrote a
22 book, and it's in the book that I went to the office.

23 And I won't forget it because, for the first
24 time in my life, I stood up to him. And I said,
25 "Bernie, this is your goddamn fault. You should have

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1 MR. ETRA: Yeah.

2 BY MR. SAMUELS:

3 Q And how frequently did you speak with
4 Mr. Madoff on the phone, let's say, from the time of the
5 injunction order of the SEC through December, 2008?

6 MR. ETRA: Objection.

7 THE WITNESS: To -- to my recollection, not
8 once.

9 BY MR. SAMUELS:

10 Q Okay. Okay. Let's go back now to the
11 document we were working on, which is page number 71.
12 At the bottom, it mentions Ziffer. Is that Elaine
13 Ziffer? Do you know if that's Elaine Ziffer who we were
14 speaking of earlier?

15 A I don't know. I don't know many people with
16 the name of Ziffer.

17 Q And do you know why you were receiving
18 management -- you and Mr. Avellino were receiving a
19 management fee in conjunction with Ms. Ziffer's
20 investment?

21 MR. ETRA: Objection.

22 THE WITNESS: To my mind, I was receiving no
23 management fees. That's what the document says,
24 not what I say.
25

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1 BY MR. SAMUELS:

2 Q So what is it about your relationship with
3 Mr. Sullivan that caused him to want to support your
4 charitable endeavors?

5 A I'd have to theorize, and I'm under oath. I
6 can't do that.

7 Q Well, you can if I ask you to, because why --
8 what is your theory in terms of why he was sending
9 hundreds of thousands of dollars to support your
10 charitable endeavors?

11 MR. ETRA: Do not speculate.

12 THE WITNESS: If I don't speculate, I can't
13 answer you. I don't know.

14 BY MR. SAMUELS:

15 Q Did you ever thank Mr. Sullivan for doing it?

16 A I don't -- I don't remember.

17 Q So he sends you hundreds of thousands -- he
18 sends hundreds of thousands of dollars to you or your
19 entities, right, to support your charitable endeavors?
20 That's a lot of money, right?

21 MR. ETRA: Objection.

22 THE WITNESS: Compared to what I was giving
23 away, no.

24 BY MR. SAMUELS:

25 Q Okay. So you didn't find it appropriate to

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1 back." The cancer returned.

2 I really had no head for details. I was
3 just -- I can't describe it. And then they had to put
4 me on a medication that I am on, to this day. One
5 thing, physically; now it's mental. It drives out all
6 the testosterone, that which makes us men. Without the
7 physicality, I am a eunuch. This stuff was not
8 important to me.

9 I kept busy with charities and a lot of other
10 social things to try to -- in London. That's why I
11 didn't want to be here. Didn't want to be here.

12 As time has gone on and I see other people
13 falling by the wayside, I have come to terms with it.
14 One of the things was Greg Powell. Hey, come on. I'm
15 still vertical. This guy got it in the brain. And
16 that's why we give so much to so many causes.

17 Q I'll ask you something about these management
18 fees.

19 A Yes.

20 Q Have you -- when these checks were coming in
21 to the entities that we went over, which would be the
22 Arlington House, FPOM, American Friends of Covent
23 Gardens -- and by the way, you were on the board of
24 American Friends of Covent Gardens, correct?

25 A No. I was never.

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1 call and thank him for supporting your -- or meet with
2 him to thank him for his supporting your charitable
3 endeavors?

4 A Most of the time, I was not in the United
5 States, okay. I was living in London. I had other
6 things on my mind starting in 2003, major project. So
7 probably I just may not have done it.

8 Q And what major project was that?

9 A Staying alive.

10 Q What was -- did you have health issues that
11 you were concerned about?

12 A Very serious.

13 Q And what was that?

14 A In 1997, I was diagnosed, at the age of 61,
15 with prostate cancer, with a Gleason of six or seven.
16 And I was told by three doctors, three major doctors,
17 that surgery was the only way to go. Yet, if I opted
18 for any part of a plan B and it didn't work, I could not
19 go back to plan A. I would die. So I took the surgery.
20 I don't want to go into it further.

21 After five-plus years, my urologist shook my
22 hand and said, "you did it." Five and-a-half years,
23 2'03. Six months later, my PSA started to rise. And
24 when you have no prostate, you should have no PSA. What
25 would make it rise? Arnold Schwarzenegger: "I'll be

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1 Q Okay. So in conjunction -- in conjunction
2 with those checks that were coming in, did you ever
3 discuss it with Mr. -- Mr. Avellino?

4 A I don't recollect doing so, no.

5 Q Well, you knew Mr. Avellino had a relationship
6 with Mr. Sullivan, correct?

7 A That is so.

8 Q Okay. So these checks were arriving at
9 FPOM -- FM -- FPOM, American Friends of Covent Gardens
10 and Arlington House, LLC, and you didn't discuss with
11 Mr. Avellino as to why these checks were coming in?

12 A I knew why.

13 Q The reason being that Mr. Sullivan wanted to
14 support your charitable endeavors?

15 A Yes.

16 Q Okay. And did you ever discuss with
17 Mr. Avellino as to why Mr. Sullivan would be interested
18 in supporting Michael Bienes' charitable endeavors?

19 A The why, you mean?

20 Q Yeah.

21 A No. Why ask why? Tell me now you want to
22 give me \$100,000 for my cancer center; I will not ask
23 you why.

24 Q Has anyone else ever given money to the
25 Arlington House, LLC, in an effort to support your

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1 charitable endeavors?

2 A Not to my knowledge, no.

3 Q And why haven't you instructed anyone else
4 who's interested in supporting your charitable
5 endeavors, to make payments to 56 Arlington House?

6 MR. ETRA: Objection.

7 THE WITNESS: Because nobody else ever was.

8 BY MR. SAMUELS:

9 Q Was interested in supporting your charitable
10 endeavors?

11 A Correct.

12 Q Outside of Mr. Sullivan?

13 A Yes. Correct.

14 Q And let's talk about the timeframe, 2003 and
15 2008, when these checks -- how many times did you meet
16 with Mr. Sullivan?

17 A Let me try to do this. I can recollect three
18 times.

19 Q Okay. And tell me about these three times.

20 A All right. One, I can't get them in
21 chronological order, though I'm trying. One was a
22 quickie, standing up. I saw him in there and I said,
23 "Michael, I'm thinking of getting my first computer. I
24 don't want to be a virgin anymore and I don't know what
25 to do."

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1 "Oh," He said, "we have a company that handles
2 all our stuff. I'll give you their information.
3 They'll set you up right."

4 And I said, "Okay. I'll keep it in mind. I'm
5 not quite ready yet." I did not take the information
6 and I left. It was a quickie.

7 The second time, I believe -- I don't know
8 which is second or third here -- Sandra Dydo, my
9 sister-in-law. I recommended Sullivan. I told her
10 where he was.

11 My sister-in-law is a high school dropout and
12 very insecure. She would walk into this room and drop
13 dead. She really would. She could not deal and never
14 did. "I'm a country girl."

15 Well -- so I said, "Sandra, they're nice
16 people. Just go over."

17 "Take me."

18 "I'll take you, but when you talk to Mike
19 Sullivan, you'll do it privately. I cannot be part of
20 the conversation. Is that acceptable?"

21 "Take me." And so I did. Introduced them.
22 He took her into a conference room. I remember chatting
23 up Susan Morse. I don't know how much time passed.

24 He came out. He said, "Come on in, Michael.
25 All is done. Sandy is well set up. She knows what to

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1 do."

2 I said, "Sandy is very bright. Sandy, you
3 good?" A load of papers. I never looked at them.

4 And then he says -- I remember this -- "Let us
5 get on our knees now and pray." So we -- so we did.

6 She liked that. "He's a nice man. I like
7 him." She has to deal with an individual. She can't
8 feel -- she'd fall over. She couldn't.

9 And then I took her away. And I said, "All
10 right. Now, you remember, he's a good man. Don't let
11 your husband, my brother-in-law, get wind of any money
12 because he'll go through it like a hot knife through
13 butter."

14 The next time, the third time that I can
15 recollect -- and I think I've got it in the right
16 chronological order -- I don't know. I was in his
17 office talking to Susan and he came in, and he said,
18 "Michael, can I speak to you?"

19 I said, "sure". We went into the conference
20 room. And he -- I don't want to do this -- he wanted to
21 speak to me about something private about, not me, his
22 family. He thought I might be able to be somebody who
23 he could reach out to. And we chatted about it.

24 I could empathize very clearly. And he said,
25 if so and so calls you, will you take the call and meet

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1 with him? I said, "yes, of course." But the call never
2 came and that was the end of it.

3 Q So those are the three meetings that you had?

4 A That I can recollect.

5 Q Okay. And so those would be three meetings
6 between the years of 2003 and 2008, that you recollect?

7 A Yes.

8 Q So less than once a year you met with him?

9 A That's the arithmetic.

10 Q And so, how often would you speak to him on
11 the phone or e-mail with him?

12 A To my recollection, not once.

13 Q Okay. So you had three encounters. How about
14 three encounters, in person, over the course of these
15 six years, right? So why is it that he would be
16 interested in supporting your charitable endeavors, if
17 you met him three times over that entire period of time?

18 MR. ETRA: Objection.

19 THE WITNESS: Can I speculate, because I don't
20 know.

21 BY MR. SAMUELS:

22 Q It's not making any sense, so what -- what's
23 going on?

24 A Not making any sense?

25 MR. ETRA: Object -- object to the comment.

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1 BY MR. SAMUELS:

2 Q Yes, sir. Why is he supporting your
3 charitable endeavors?

4 A Because he's a charitable man, and he was well
5 aware of our charitable activities. He was suitably
6 impressed by the cancer center. That really -- that
7 really set him up for it. Or why not? His partner died
8 from it.

9 Q How do you know he was impressed about the
10 cancer center?

11 A He told me.

12 Q When?

13 A I don't remember.

14 Q You only met with him three times.

15 A Maybe the first time. I don't know. I don't
16 know.

17 Q When --

18 A I don't know when -- maybe -- no. Wait a
19 minute. Maybe before 2003, but he didn't do anything
20 about it. He may have been one of those many people who
21 gave me a pat on the back and "good going" and "hey,
22 that's really wonderful. What a thing for the
23 community." Don't you think?

24 Q How many times have you met with -- how many
25 times have you met with Michael Sullivan in your life?

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1 Q Yeah. Did you ever walk down the hall to his
2 office?

3 A Well, to get to his office I had to walk down
4 the hall.

5 Q Other than these times, did you otherwise go
6 to his office?

7 A Not that I can recollect.

8 Q Okay. Do you recall ever walking down to his
9 office, complaining that a distribution check to one of
10 your family members was late?

11 A Absolutely not.

12 Q So with Sandra and your sister-in-law, when
13 she went in to meet with Michael Sullivan, why is it
14 that you could not be part of that conversation?

15 A I didn't want to be.

16 Q So you couldn't be part of the conversation by
17 choice? You just didn't care to be?

18 A Choice. Mine.

19 Q Okay. Yeah. So we're talking about the
20 family issue that Michael Sullivan wanted to talk to you
21 about. What, specifically, was it that he wanted to
22 talk to you about his family?

23 A Must you ask that?

24 Q Yes.

25 MR. ETRA: Michael, there's no privilege.

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1 A Well, there was those three and the meeting
2 about the tax order. That's four. Can't be more than
3 five or six times.

4 Q Total?

5 A Total.

6 Q And how many times did you speak to him?

7 A Five or six times.

8 Q No. I'm sorry. Those were -- five or six
9 times, including meetings and speaking to him --

10 A Yeah.

11 MR. ETRA: Objection.

12 MR. SAMUELS: -- on the phone, e-mails, all
13 that?

14 THE WITNESS: No e-mails.

15 MR. SAMUELS: Okay.

16 THE WITNESS: No phone calls.

17 BY MR. SAMUELS:

18 Q Do you recall going to his office and meeting
19 with any of his office people?

20 MR. ETRA: Objection.

21 THE WITNESS: I told you I met, when she was
22 there, Susan Morse.

23 BY MR. SAMUELS:

24 Q Other than who we've spoken about today?

25 A Other people?

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1 THE WITNESS: Then I must answer and I will.
2 And I will. This is one of the -- see, with me, I
3 don't care, but somebody else.

4 He said to me, "Susan mentioned to me that
5 when you were chatting her up" --

6 I said, "I'm sorry if I took her" --

7 "No. No. No. No. Just listen to me," he
8 said. "That -- when you were with the IRS, you put
9 yourself in positions where you had to speak
10 publicly. You became an agent instructor, you were
11 on the Speaker's Bureau and other things, and you
12 did this because you were trying to finally
13 overcome a stutter, a speech defect that you had
14 had since childhood."

15 And I said, "that is correct. There's a
16 problem; don't run away from it, go towards it.
17 Force yourself."

18 He said, "Michael, my son is in high school
19 and he suffers from a severe speech defect. He
20 stutters. And the kids tear him apart."

21 I said, "I've been there. Four years of my
22 life I bled inside because teenage boys, it's a
23 right of passage." And we talked a little bit and
24 I said, "you know, have you gotten help for him?"

25 "Well, he doesn't want it and I don't know."

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1 He said, "Michael, would you meet with him if he
2 called you?"
3 And I said, "of course. More than happy. Any
4 time, any place."
5 And he said, "Thank you."
6 And I said, "Listen, Michael, it will be much
7 easier after he gets out of high school. People
8 are kinder. But in high school, it's an animal
9 pit, what I went through." And some teachers in
10 those days were not kind.
11 So I felt -- and I didn't want to bring this
12 up but, you know, he's -- that's 8 years ago. He's
13 out of high school. He's out of college, so it's
14 not going to hurt him. Okay. Right. It's not
15 going to hurt him. I got to get my timeframe
16 right.
17 BY MR. SAMUELS:
18 Q Okay. So you shared your personal experience
19 with -- as a stutterer with Michael?
20 A Yes.
21 Q Okay. Do you recall anything else about that
22 conversation?
23 A No. No.
24 Q Did you share anything else with him about
25 your personal life?

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1 A No. I wouldn't do that.
2 Q Okay. I'm going to ask you about some people
3 who invested with Michael Sullivan. Now, you heard
4 Mr. Avellino testify -- you know, actually, before I get
5 to that, do you know why Mr. Avellino testified that the
6 money that he received, which is also money you
7 received, why he agreed that they were commissions and
8 you are not agreeing they're commissions?
9 MR. ETRA: Objection.
10 MR. WOODFIELD: Objection.
11 THE WITNESS: I have no idea.
12 BY MR. SAMUELS:
13 Q You never talked to Mr. Avellino and said, why
14 are you agreeing that these are commission payments?
15 MR. WOODFIELD: Objection.
16 MR. ETRA: Objection.
17 THE WITNESS: No.
18 BY MR. SAMUELS:
19 Q Did you ever talk to Mr. Avellino and say, why
20 are you agreeing that these were payments that we
21 received for referring clients to Mr. Sullivan?
22 A No.
23 Q Did you ever talk to Mr. Avellino and say, why
24 are you agreeing that these are management fees that we
25 are receiving?

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1 MR. WOODFIELD: Objection.
2 THE WITNESS: No.
3 BY MR. SAMUELS:
4 Q Do you intend to ask him?
5 MR. ETRA: Don't answer that question.
6 MR. SAMUELS: What do you mean, don't answer
7 it?
8 MR. ETRA: Testimony is -- testimony is
9 present recollection of past events. What he
10 intends to do --
11 MR. SAMUELS: Okay. Okay. So you're
12 instructing him not to answer; is that right?
13 MR. ETRA: I'll withdraw the instruction. Go
14 ahead.
15 THE WITNESS: I don't know.
16 BY MR. SAMUELS:
17 Q Okay. By the way, do you have any sort of
18 joint-defense agreement or common-interest agreement
19 with Mr. Avellino, in connection with this case?
20 A You'd have to ask my lawyer. I don't know
21 what even those terms are.
22 Q Okay. How about connection with the Picard
23 proceedings, do you know?
24 A Same answer.
25 Q Okay. Who was your lawyer in the Picard

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1 proceedings?
2 A As far as I know, Mr. Etra.
3 Q Okay. Let's go to Exhibit 13 now.
4 MR. ETRA: Thirteen, one-three?
5 MR. SAMUELS: One-three.
6 BY MR. SAMUELS:
7 Q Okay. You have before you a document that I
8 discussed with Mr. Avellino yesterday, and it's a letter
9 from him to Mr. Greg Powell at Sullivan and Powell. And
10 it's dated June 5th, 2000.
11 It says: "Dear Greg, thank you for responding
12 with this list. The two names I recognize on the
13 P&S Associates list is John Crawly, Michael and Dianne's
14 friend. Do you see that?
15 A Yes, sir.
16 Q And Michael, would you agree that Mr. John
17 Crawly is a friend of you and your wife's?
18 A He was.
19 Q At that time, 2000?
20 A No, he wasn't.
21 Q Before that he was?
22 A Years before, yes.
23 Q Okay. And do you recall telling Mr. Crawly
24 that he could or should contact Michael Sullivan to
25 invest with him or one of his entities?

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1 A I never did that.
2 Q Okay.
3 A I had no more contact with him.
4 Q Have you now learned, through documents in
5 this case, that the monies that were paid to FROM --
6 A FPOM.
7 Q -- I'm sorry -- FPOM, 56 Arlington House, and
8 American Friends of Covent Gardens, that those -- the
9 monies that were paid, the amount of monies that were
10 paid were tied into monies received by Michael
11 Sullivan's entities, in conjunction with specific
12 investments by specific people?
13 MR. ETRA: Objection.
14 THE WITNESS: I know that's what his books
15 claimed.
16 MR. SAMUELS: Okay.
17 THE WITNESS: But I don't know.
18 BY MR. SAMUELS:
19 Q Okay. Now, let's go through this document.
20 Now, there is -- do you know why Mr. Avellino is
21 mentioning to Mr. Powell at Sullivan and Powell that
22 there were accounts attributable to our old accounts,
23 Vania --
24 MR. ETRA: Alves. I'm sorry.
25 MR. SAMUELS: -- Alves, Stanley and Emily

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1 Leonardo (phonetic). Do you know why?
2 MR. ETRA: Objection.
3 THE WITNESS: I have no idea.
4 BY MR. SAMUELS:
5 Q Okay. Now, Patricia Hidalgo (phonetic), is
6 that someone who you told should or could speak to
7 Michael Sullivan about possibly investing with Michael
8 Sullivan or one of his entities?
9 A I could say, absolutely not.
10 Q Okay. Now, you have Stanley and Emile --
11 A Emily.
12 Q Emily?
13 A Leonardi.
14 Q Leonardi. Is that, in fact, your wife's
15 uncle?
16 A An aunt, and she married Leonardi.
17 Q Okay. And they ended up investing in -- with
18 Mr. Sullivan?
19 A It says that.
20 Q Or one of his entities?
21 A I didn't know but it says that.
22 Q Did you at any time ever know that Dianne's
23 aunt and uncle had money invested with Madoff?
24 A Yes, I did.
25 Q And did you learn that before Madoff was

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1 exposed publicly as a Ponzi scheme?
2 A I don't recollect too long ago. I don't
3 recollect.
4 Q So, my question is -- well, I'll ask another
5 question.
6 Did either you or Dianne tell Stanley or
7 Emile --
8 A Emily.
9 Q -- Emily, that they should or could contact
10 Mr. Sullivan to invest with Mr. Sullivan or one of his
11 entities?
12 MR. ETRA: Objection.
13 THE WITNESS: Speaking for myself, I did not.
14 BY MR. SAMUELS:
15 Q Okay. Do you know why the books and records
16 of S&P indicate that you were receiving commission
17 payments in conjunction with investments made by
18 Dianne's aunt and uncle?
19 A I do not.
20 Q Okay. Mr. Avellino then says, if you can turn
21 to the document: "In summary, the P&S accounts with
22 Monsignor Kelly may be the only accounts we may have
23 some claims on." Do you know what claim Mr. Avellino is
24 referring to?
25 A I do not.

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1 Q Would it be claims to commissions?
2 A I don't know.
3 Q Claims to referral fees?
4 A I don't know.
5 Q Okay. Let's turn now to page 6. So -- here
6 it says --
7 MR. ETRA: I'm sorry. It doesn't have a
8 page -- oh, I'm sorry. Yes.
9 MR. SAMUELS: At the bottom.
10 MR. ETRA: I got it.
11 BY MR. SAMUELS:
12 Q "Sullivan and Powell, 2004, P&S accounts."
13 A Yes.
14 Q Total, \$3,501,472. Then it says, a management
15 fee of \$115,153.18. Fifty percent of that is
16 \$57,576.50. And then there's a column for, "MB,"
17 Michael Bienes and, "FA," Frank Avellino. Do you see
18 that?
19 A Yes.
20 Q That indicates \$28,788.30 to each of you,
21 correct?
22 A That's what it says.
23 Q Okay. And do you know if those monies were
24 paid to you and Mr. Avellino or paid to others at your
25 direction?

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1 A I don't know.
2 Q Did you ever direct or instruct Mr. Sullivan,
3 or anyone on his behalf, to make payments to any entity,
4 including but not limited to those we've already
5 discussed?
6 A Not directly, no.
7 Q How about indirectly?
8 A Oh, sorry. Oh, my God. I lost the
9 microphone. You're going to have to find it. I thought
10 it -- stupid little thing.
11 MR. ETRA: Can you set this up -- set him up
12 with this, please?
13 VIDEOGRAPHER: Do we go off the record?
14 MR. ETRA: You can stay on the record just --
15 THE WITNESS: I know I can do this. He showed
16 me how to do it. That doesn't mean I can do it,
17 but he showed me how to do it. He said this is the
18 way to do it. Is this good?
19 VIDEOGRAPHER: Perfect.
20 THE WITNESS: Okay. See. We're good.
21 MR. ETRA: Can I get the question back?
22 (A portion of the record read by reporter.)
23 THE WITNESS: I may have spoken to
24 Mr. Avellino and told him, but I don't recollect
25 the conversation. I can't bring it in.

1 Q So adding an LLC into the mix makes it
2 simpler?
3 A No. No. You forgot. The LLC was set up to
4 pay rent. It would have to be funded from our funds,
5 our general funds. By him putting it into 56 Arlington,
6 I didn't have to use those general funds.
7 The checking account would have been funded,
8 at least for a portion of the rent or maybe all of it.
9 It was just bookkeeping and, again, money is spongeable.
10 You just make journal entries. That's all you have to
11 do.
12 Q Let's go now to Exhibit 10, please. Okay. In
13 connection with Exhibit 10, this is a document of
14 S&P Associates, management fees to Avellino & Bienes.
15 It lists people that we went over earlier.
16 And I wanted to direct you to the bottom part
17 where it says: "Give year-to-date management fee to
18 Frank verbally, in January, after year end, and he will
19 decide split, 50 percent hopefully, and how much to pay
20 to whom."
21 Do you recall having discussions with
22 Mr. Avellino -- Mr. Avellino that the money that was to
23 be paid by S&P or P&S or Sullivan to you and
24 Mr. Avellino, or entities on your behalf, should be
25 split 50/50?

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1 BY MR. SAMUELS:
2 Q Told him what? You may have told him what?
3 A If he doesn't want to give to my charities
4 direct for whatever reason, but he still wants to give,
5 then let him make out the check to 56 Arlington. I'm
6 surmising now. I can't bring that conversation into my
7 mind's eye and ear. I don't have it like I did with the
8 conversation of Sullivan's son. That, I can do.
9 Q If he wanted to take the tax deduction by
10 paying commissions to you, and while at the same time
11 supporting your charities, couldn't he just have paid
12 you directly?
13 A You mean, to my own name?
14 Q Yeah.
15 A Oh, yes. Yes, he could have.
16 Q So why wouldn't he do that?
17 A Because I asked him, through Frank Avellino,
18 to do it through 56 Arlington.
19 Q And why would it be better for you to do it
20 through 56 Arlington, than just get the money --
21 A It was not better.
22 Q -- if you were going to be paying the money to
23 charity, anyway?
24 A It was not better, it was not worse -- worse,
25 it was just a simplification.

1 A Not at all.
2 Q Okay. Let's go now to Exhibit 15.
3 VIDEOGRAPHER: We're going to need a break in
4 like ten minutes.
5 MR. SAMUELS: I'm sorry?
6 VIDEOGRAPHER: Ten minutes.
7 BY MR. SAMUELS:
8 Q All right. So I want to ask you if you've
9 ever seen this letter that's been marked as Exhibit 15.
10 A Yes.
11 Q When did you first see it?
12 A I don't recollect. I know I saw it yesterday.
13 Q Do you remember seeing it before yesterday?
14 A Yes.
15 Q Okay. I want to go to the fourth paragraph.
16 And there's a letter from Michael Sullivan to Betty
17 Anne. Are you aware that Michael Sullivan considered
18 the S&P and P&S businesses to be a gift given to him by
19 Frank Avellino?
20 A That's what he's writing to the widow.
21 Q Uh-huh.
22 A Yes. He's writing that to the widow.
23 Q Did you know that Mr. Sullivan considered S&P
24 and P&S businesses to be gifts given to him by your
25 "brother," Frank Avellino?

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1 A Not until I read this letter, and that's what
2 he says. That's what he writes, but I never knew it
3 before. That's what he's telling the Widow Powell.

4 Q Do you know why he's telling that to
5 Ms. Betty?

6 A Because he doesn't want to give her any more
7 money.

8 Q Okay. Let's go to this next paragraph -- I'm
9 sorry. The paragraph after that -- where it says: "I
10 am the person who deals with the main source, Frank
11 Avellino." Do you know -- did you know that
12 Mr. Avellino was the "main source" for the S&P and P&S
13 businesses?

14 A I know what I read, but I don't know if it's
15 true.

16 Q You don't know if it's true or not?

17 A Of course not.

18 Q You don't know whether it's true or not, one
19 way or the other?

20 A I do not.

21 Q Okay. Let's go to the last paragraph on the
22 next page. In the last sentence on the last line of
23 that page, Mr. Sullivan stating: "The business would be
24 worth nothing if he died, the market crashed, or Frank
25 or Bernie dies." Do you know why the S&P or P&S

1 A Not to my knowledge.

2 Q Okay. In the fourth bullet point -- this is
3 the letter from Mr. Sullivan to partners -- it says that
4 Avellino & Bienes have never had any control over the
5 partnerships. Do you know why Mr. Sullivan --

6 A I'm looking for the -- I'm sorry.

7 Q Sure. It's the fourth bullet point on the
8 first page.

9 A Oh, on the first page. I got it.

10 Q It says: "Avellino & Bienes have never had
11 any control over the partnerships."

12 Do you know why Mr. Sullivan is telling the
13 partners that that's the case, despite the fact that he
14 mentioned to Betty Anne that Mr. Avellino was in control
15 of the partnerships?

16 MR. ETRA: Objection.

17 THE WITNESS: Do I know why he said that?

18 MR. SAMUELS: Yeah, in spite of the fact that
19 he told Betty Anne that Avellino, in fact, was in
20 control of the partnerships?

21 MR. ETRA: Objection.

22 THE WITNESS: I have no idea.

23 BY MR. SAMUELS:

24 Q When's the last time you've spoken to
25 Mr. Sullivan?

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1 businesses would be worth nothing if Mr. Avellino would
2 die?

3 MR. ETRA: Objection.

4 THE WITNESS: I have no idea.

5 BY MR. SAMUELS:

6 Q Okay. Let's go now to Exhibit 21. Prior to
7 being sued in this case, were you aware that there were
8 investors in S&P and P&S who wanted to sue you?

9 A I did not.

10 Q So, before you got sued, you had no knowledge
11 of that?

12 A I did not.

13 Q Did Mr. Avellino or Mr. Bienes ever mention to
14 you that there were investors involved with Michael
15 Sullivan in some way?

16 MR. ETRA: You said did Mr. Avellino and
17 Mr. Bienes mention to you.

18 MR. SAMUELS: Thank you.

19 MR. ETRA: You're welcome.

20 BY MR. SAMUELS:

21 Q Did Mr. Sullivan or Mr. Avellino ever mention
22 to you, prior to your getting sued in this case, that
23 there were certain people who invested with Michael
24 Sullivan or his entities, that were contemplating filing
25 a lawsuit against you?

1 A Wait. Last time -- oh, wait a minute. Two
2 years ago, approximately.

3 Q And that was after this lawsuit was filed,
4 right?

5 A Oh, yeah. Oh, yeah.

6 Q So what was the basis of that discussion?

7 A No discussion.

8 Q When did you see him?

9 A We were having lunch, my wife and I, in a
10 restaurant on Atlantic Boulevard called Johnny's. And I
11 look up and he's walking through to a table that was
12 around the corner -- so I couldn't see him -- and he sat
13 down.

14 I got up, I walked around. I think I said,
15 "Hello, Mike."

16 He said, "Hello, Michael." He said, "Michael,
17 this is Steve Jacob."

18 I said, "Hello, Steve." I said, "How is
19 everything?"

20 He says, "How could it be?" You know, I don't
21 know.

22 I said, "Well, bless us both." Shook hands
23 and went around to my table, and that was that.

24 Q When did you first meet Mr. Jacob?

25 A That was the first time.

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1 Q You had not met him before that?
2 A No, sir.
3 Q Were you aware that Mr. Jacob did the books
4 for Michael Sullivan's entities?
5 A I was not.
6 Q Okay. Were you aware that Father Kelly or the
7 Kelco Foundation was receiving payments from P&S, S&P,
8 Michael Sullivan or an entity connected with Michael
9 Sullivan?
10 A I was not.
11 Q Did you ever ask -- did you ever mention to
12 Michael Sullivan that if he wanted to support any of
13 your charitable endeavors, that he could make payments
14 to any Catholic-related charities?
15 A I did not and I would not.
16 Q And why would you not?
17 A As a courtesy.
18 Q Is that because he's not Catholic?
19 A Exactly.
20 Q Okay. Were you aware of any payments made by
21 Michael Sullivan or any entities in which he was
22 involved with, to any other individuals or entities,
23 aside from the charitable entities that we've discussed
24 with you today or the entities that received payments on
25 behalf of Mr. Bienes that we -- Mr. Avellino that we

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1 discussed yesterday?
2 A You mean, anyone else?
3 Q Uh-huh.
4 A Okay. no, I am not.
5 Q Okay.
6 VIDEOGRAPHER: Excuse me. We need to take a
7 break.
8 MR. SAMUELS: Sure. Okay.
9 VIDEOGRAPHER: Ending disc number two. We are
10 off the record at 2:58 p.m.
11 (Thereupon, a recess was taken from 2:58 p.m.
12 to 3:12 p.m.)
13 VIDEOGRAPHER: Back on the record. This is
14 the beginning of disc number three. The time is
15 3:12 p.m.
16 BY MR. SAMUELS:
17 Q Okay. I've got some questions I want to ask
18 you about S&P and P&S. Do you recall ever discussing
19 the affairs of S&P and P&S with Michael Sullivan?
20 A No, I do not.
21 Q Do you recall ever discussing with Michael
22 Sullivan the fact that he was investing through his
23 partnerships in Madoff?
24 A No, I do not.
25 Q Do you recall ever receiving quarterly reports

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1 from Mr. Sullivan concerning S&P and P&S?
2 A I do not recall ever receiving such reports.
3 Q Do you recall receiving reports -- summary
4 statements that Mr. Avellino had testified about
5 yesterday, summary statements that would support the
6 amount that was owed to you and Mr. Avellino?
7 MR. ETRA: Objection.
8 THE WITNESS: I do not recall anything like
9 that.
10 BY MR. SAMUELS:
11 Q Do you remember Mr. Avellino testifying
12 yesterday that he would receive summaries, monies that
13 were due for commissions? Do you recall that testimony?
14 A Vaguely, yes.
15 Q Okay. And do you recall ever seeing any of
16 those same summaries that Mr. Avellino was receiving?
17 A No. No.
18 Q Okay. Do you know Mr. Brett Stapleton
19 (phonetic)?
20 A No, sir.
21 Q Do you know Jodi Crupi?
22 A I do not know her. I know of her, and I spoke
23 to her on the telephone no more than five times.
24 Probably a little bit less.
25 Q And who is she?

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1 A She was a Madoff employee.
2 Q Did you ever advise Mr. Sullivan to call
3 Ms. Crupi, with any issues he may have concerning
4 Madoff?
5 A I do not recall any such thing.
6 Q Okay. Are you aware of Father Kelly advising
7 other parishioners and members of St. John the Baptist
8 Catholic Church to invest with Mr. Sullivan?
9 A I never saw or heard Father Kelly do any such
10 thing.
11 Q Were you aware of him doing it?
12 A I certainly was not aware because I don't
13 recall him ever doing it.
14 Q Now, you made a lot of money on Madoff, right,
15 over the years?
16 A I made substantial money, yes.
17 Q Okay. And you would agree that not anyone can
18 open an account with Mr. Madoff, correct? You had to be
19 referred to him by a friend or family member or existing
20 client; is that right?
21 A I do not know how -- what his rules were.
22 Q Okay.
23 A I have no idea.
24 Q So you don't know if his rules were like the
25 rules at Avellino & Bienes, where it would be just

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1 friends, family members, clients, and people referred by
2 clients?
3 MR. ETRA: Objection.
4 THE WITNESS: I have no idea what Madoff's
5 policies in his business were.
6 BY MR. SAMUELS:
7 Q Okay. How often would you go to church or
8 attend church functions back in the 2003/2004 timeframe?
9 A I believe we went to church mass most Sundays
10 or Saturday night.
11 Q Did you otherwise participate in church
12 functions?
13 A Very rarely.
14 Q Okay. And as a result of your attendance at
15 church and affiliation with the church, did you come to
16 learn that there were other parishioners who were able
17 to invest funds in Madoff, either directly or
18 indirectly?
19 A I did not.
20 Q Were you aware that the partnership paid
21 Bishop Wills' mortgage?
22 MR. ETRA: Objection.
23 THE WITNESS: I was not.
24 BY MR. SAMUELS:
25 Q Did you ever discuss issues pertaining to

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1 BY MR. SAMUELS:
2 Q \$350,000 wasn't enough for you to think about?
3 A Was that in one year?
4 Q No.
5 A Over four years?
6 Q Approximately, yeah.
7 A No. It wasn't really that much to think
8 about.
9 Q Okay.
10 A With respect.
11 Q After Madoff was discovered to be a Ponzi
12 scheme or became -- strike that.
13 After it was public that Madoff was a Ponzi
14 scheme, did you -- did any other investors with Madoff
15 contact you?
16 MR. ETRA: Objection.
17 THE WITNESS: Not that I can recollect.
18 BY MR. SAMUELS:
19 Q So you don't recall -- did you ever talk to
20 any other investors in Madoff, after Madoff -- the
21 Madoff Ponzi scheme became public, in December of 2008?
22 A Not that I can recollect, no.
23 Q How about Mr. Avellino, did you talk to him
24 about it?
25 A Yes.

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1 Madoff with Sullivan?
2 A I cannot recall ever doing any such thing.
3 Q How about Powell?
4 A As I stated, I met Powell only once.
5 Q Who were your accountants?
6 A Ahearn Jasco.
7 Q And who at Ahearn Jasco do you deal with?
8 A Rebecca McDonough.
9 Q And how did you come to have a relationship
10 with Ahearn Jasco?
11 A I was recommended to them by a Frank Brogan of
12 Greenberg Traurig.
13 Q And when were you referred to Ahearn?
14 A I would say in the '90s.
15 Q Okay. In the complaint in this case, it's
16 been alleged that either your entities controlled or
17 affiliated with you or your charities, received over
18 \$357,000 in payments from S&P, P&S, Michael Sullivan or
19 entities controlled by Michael Sullivan. Prior to
20 receiving this lawsuit, were you aware that you or those
21 entities had received over \$350,000?
22 MR. ETRA: Objection.
23 THE WITNESS: I never thought about it, in my
24 mindset.
25

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1 Q And what did you and Mr. Avellino discuss?
2 A That our world was turned upside down, that we
3 were just blown away by this, that -- what could you say
4 to each other?
5 Q So let me ask you something: Starting when
6 you first began investing in Madoff, all the way up to
7 2008, was there ever a year where you did not receive a
8 return on your investment of at least ten percent?
9 A I would say that's a fair statement.
10 Q So you always received at least ten percent or
11 more on your money?
12 A You're getting too specific, now. I don't
13 want to say yes to something. It's a long stretch. The
14 way you put it the first time, I said it's a fair
15 statement.
16 Q Okay. Were you aware of the accounting firm
17 that was used by Mr. Madoff while you were investing
18 with him?
19 A When the accountant was Jerome Horowitz, I was
20 aware. After Horowitz retired I was not aware.
21 Q So you didn't -- were you aware that the
22 accounting firm he used was Friebling and Horowitz?
23 A No. No.
24 Q Were you aware that he used an accounting firm
25 with three or four accountants?

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1 A No.
2 Q Is it fair to say that you made hundreds of
3 millions of dollars, directly or indirectly, through
4 Madoff?
5 A It might be fair but I don't think it's
6 accurate.
7 Q Is it accurate to say?
8 A No. No.
9 Q Do you know who Frank D. DiPascali is?
10 A Was. Yes.
11 Q And who was he?
12 A From what I read, he was a key Madoff
13 employee.
14 Q And did you ever meet with him and -- before
15 he passed away?
16 A No.
17 Q Did you ever talk to him?
18 A Once.
19 Q Where do you recall that conversation?
20 A I called Madoff and usually it was a girl.
21 Madoff -- but this time it was a man. And I just asked
22 a very simple question. That's all I ever had. It took
23 a minute. And I always ask at the end, "Who am I
24 speaking to, please?" And, usually, the girl said,
25 Jodi. And I would say, thank you, Jodi, and she'd hang

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1 up.
2 So this time I asked the name and say, thank
3 you. And he said, "Frank."
4 I said, "Oh, Frank. Okay. Thank you, Frank."
5 And I assume that was Frank DiPascali. I assume.
6 Q Where do you recall that telephone call?
7 A I don't.
8 Q So would you agree that it was not possible to
9 simply set up a friend or partnership to invest with
10 Madoff, without a referral or a firm reference from
11 someone who had a prior relationship with Madoff?
12 A I don't know. I told you that. I don't know
13 what his policies were.
14 Q Why did you tell -- why did you disclose in
15 the interview, on PBS FRONTLINE, that it must have been
16 Avellino who facilitated Sullivan's ability to invest
17 with Madoff, because it wasn't you?
18 MR. WOODFIELD: Objection.
19 THE WITNESS: I took that interview in
20 February, two months after Madoff. I was so far
21 down I didn't know where I was. I was in a spin.
22 Financially, I was in very, very deep trouble,
23 very deep trouble. I knew the house that we were
24 doing the interview in, my house, we would have to
25 get out of in a month. Very quickly. We couldn't

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1 maintain it. I was by my attorneys. "Put it for
2 sale with a good broker" --
3 MR. ETRA: Stop. Stop. Stop.
4 THE WITNESS: Yes.
5 MR. ETRA: Don't.
6 MR. SAMUELS: Okay.
7 MR. ETRA: Don't -- don't say what your
8 attorneys told you. You can answer the question,
9 just don't talk about what your attorneys did.
10 MR. SAMUELS: Well, you can tell me what you
11 did, just don't tell me about what your attorneys
12 told you to do.
13 THE WITNESS: All right. We knew we were
14 going to leave. I was not on my game. I was under
15 great pressure. I was totally devastated.
16 It was a TV show. You know, some of the
17 things I said, I wish -- I wasn't -- I wasn't clear
18 in my mind. Big TV camera. I knew it was going to
19 record on PBS. Martin Smith, very tough. He makes
20 you look easy, and that's not easy to do. And I
21 said what I said. Whether I was right or wrong or
22 knew what I was talking about, I don't know. I
23 don't know why I answered certain things in certain
24 ways. It's six years ago, and I don't -- I wish I
25 hadn't taken the interview, because I wasn't ready

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1 for it.
2 BY MR. SAMUELS:
3 Q Do you know if you're currently under
4 correct -- any criminal action?
5 A Not to my knowledge.
6 Q Okay. All right.
7 MR. SAMUELS: What number are we at?
8 MR. WOODFIELD: Thirty-seven would be next.
9 MR. SAMUELS: Thirty-seven. Okay.
10 (Plaintiffs' Exhibit No. 37 was marked for
11 identification.)
12 MR. ETRA: I -- I assume you don't want him to
13 read the whole thing right now.
14 MR. SAMUELS: No. No. No. Please don't read
15 the whole thing.
16 MR. ETRA: Okay.
17 MR. SAMUELS: I'm going to refer you to
18 certain pages, and this has to do with the
19 interview you gave that you're referring to, okay?
20 THE WITNESS: Okay.
21 BY MR. SAMUELS:
22 Q So I want to talk to you about some of the
23 things that you said. And you would agree that six
24 years ago, you would have had a better memory of certain
25 events that transpired than you do now, correct?

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1 A Relatively speaking, maybe, yes.
2 Q Okay. Okay. So let's turn now -- these pages
3 do have Bates numbers on them. They're pretty small,
4 unfortunately.
5 MR. WOODFIELD: Are -- are these -- that's not
6 a familiar Bates stamp.
7 MR. SAMUELS: AVE0 --
8 MR. WEBER: It's the Bates stamp.
9 MR. SAMUELS: -- 2917. It's early -- it's
10 one -- if you flip the page, it's one -- to the
11 back of the second page.
12 MR. WOODFIELD: I don't have a back. We only
13 have the even-numbered pages. We don't have the
14 backs.
15 MR. ETRA: You don't have copies?
16 MR. WEBER: This one has the backs. Are you
17 sure?
18 MR. WOODFIELD: Yeah.
19 MR. SAMUELS: He's got front and backs.
20 MR. ETRA: I have a back.
21 MR. WOODFIELD: Thanks.
22 MR. SAMUELS: Okay.
23 BY MR. SAMUELS:
24 Q Okay. Here I'm just going to quote you and
25 just ask you if this is true, okay? This is talking

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1 about Saul Alpern. It says: "One of the first things
2 Saul Alpern said to me when I went to work for him was:
3 'Listen, yeah, listen. You got money, you can invest it
4 with my son-in-law Bernie. You'll get 20 percent.'"
5 All right. You mentioned that on TV. Do you
6 recall that being one of the first things that Saul
7 Alpern said to you?
8 A Yes, I do.
9 Q Okay. I'm now on page 02919. And I'm just
10 going to talk to you about some things that you said and
11 ask if it's truthful or not, okay?
12 (Discussion held off the record.)
13 BY MR. SAMUELS:
14 Q "What my partner Frank told me -- because
15 Frank started with the firm in 1958. He went directly
16 from college to Alpern & Heller. He was a fixture
17 there. He was the key employee.
18 "He said he remembered Bernie coming in in '59
19 and '60, and using part of a desk in their office on
20 42nd Street, and working a phone line he had put in."
21 Is that truthful?
22 A Yeah.
23 Q Okay.
24 A Yes, it is.
25 Q All right. I'm now on page 21. The question

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1 was: "When did you get into investing other people's
2 money with Bernie Madoff?"
3 You said, "Saul, his father-in-law, had been
4 doing it since the late '60s, I think, if not before."
5 Is that your recollection in terms of when
6 Saul -- you were aware of Saul starting to invest in
7 Bernie?
8 A Yes.
9 Q Okay. Then the question is: "And the guy had
10 a hot hand?"
11 And you say, "You see, what Bernie said -- he
12 took a few straight accounts from Saul's people in the
13 beginning, and then he said to his father-in-law: 'No,
14 I cannot handle small accounts like this. This is a
15 pain in the neck and a pain in the butt.'"
16 "So Saul, being smart, said: 'Look, open up
17 an account called A&A and I'll do the record keeping.
18 I'll handle the checks. I'll do it all.'
19 "Yeah, he gave Frank a piece and I got a piece
20 when I became a partner. It became like a client of the
21 firm. It's was only about \$2 million and-a-half, \$2.5
22 million in the account. That was big money to me. And
23 we made a little bit off the top or backs. A business
24 in millions, a profit in pennies; it's true.
25 "So he would do this, and then when he

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1 retired, he says: 'I'm taking the green book down to
2 Florida. It'll give me work to do and I'll mail stuff
3 up to Nanette, and she'll type up the checks to send
4 out.'" Do you recall that?
5 A Yes, I do.
6 Q Okay. So now, we're talking about -- if you
7 go down, "What was the major business at the time, in
8 '70, still accounting?"
9 "We were accountants. Oh, yeah."
10 "How much of your business at that time was
11 investing with Bernie?"
12 "Oh, maybe ten percent, at most. I can't
13 remember."
14 So you recall that, in 1970, about ten percent
15 of your business was investing in Bernie Madoff?
16 A Would that be right? I was guessing.
17 Q Okay. Approximately -- is that an
18 approximation?
19 A I don't know. I was guessing.
20 Q Okay.
21 A I could be wrong. I wanted to give him an
22 answer.
23 Q Okay. So on the bottom of page 23, you're
24 saying: "Oh, yes. Oh, yes, it did. We knew that and
25 we always said there's not a corporation in the carload.

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1 It's always us as GPs.
2 "We didn't create one of those partnerships --
3 you know, and the trick is who's a general partner? A
4 shell corporation is a general partner. Who owns the
5 shell? The boys. We never did that. There was no
6 corporation. We always stood behind it. That's how
7 much we believed in Bernie.
8 "So you were promising people how much?"
9 And you said, "All depends. Big amounts,
10 18 percent; smaller amounts, 17, 16, even as low as 15."
11 Do you see that?
12 A I'm on page --
13 Q Now, I'm over on page 24.
14 A Oh, okay. Wait a minute. Yeah, I see that.
15 Q So you recall promising people 18 percent;
16 smaller amounts, 17, 16, or even as low as 15?
17 A Uh-huh. Yeah.
18 Q Okay. And then on page 25, it says: "At the
19 time, were you the only people that you were aware of
20 that were feeding Bernie Madoff money?"
21 And you said, "Yes. Yes."
22 "In the '70s?"
23 "Yes. Yes. We thought we were the only
24 ones." Do you see that?
25 A Yes, sir.

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1 Q So, does that refresh your recollection that
2 you were the only ones trading money into Bernie Madoff
3 in the '70s?
4 MR. ETRA: Objection.
5 THE WITNESS: It doesn't have to refresh my
6 recollection. It's what I thought.
7 BY MR. SAMUELS:
8 Q Okay. Very good.
9 So let's go now to page 26. "Why did you need
10 to know? I mean, it's money."
11 You say, "No. No. No. It's not the money;
12 it's people. I don't want bad people. I don't want
13 people we don't know. I don't want people who shouldn't
14 be giving us money."
15 Do you see that?
16 A Yes.
17 Q So you were careful in terms of who you were
18 taking money from, right?
19 A I would say so.
20 Q Why is that?
21 A Obvious reasons. Are you not careful who
22 you're taking as clients?
23 Q I'm asking you. It's a deposition.
24 A Because we're running a financial service, and
25 we didn't want people who were not going to be solid and

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1 comply by the rules.
2 Q Okay. So now, on page 28 at the bottom, it
3 says: "So it was all Madoff starting in the '80s?"
4 And you say, "83."
5 A Yes.
6 Q "All Madoff, because they forced us out of the
7 accounting business. Not that I care. Don't cry for
8 me. I hate it. I hated it."
9 So by --
10 MR. ETRA: I'm sorry. What page? I
11 apologize. What page?
12 MR. WOODFIELD: Twenty-eight.
13 MR. SAMUELS: Twenty-eight.
14 BY MR. SAMUELS:
15 Q So by -- on or about by 1983, your entire
16 business was investing in Madoff?
17 A After we closed -- after we closed the
18 accounting practice, in '83, I believe Madoff was all
19 that was left. We couldn't get insurance to do anything
20 else.
21 Q Okay. Let's now go to 31. Now, you're
22 talking about Mr. Avellino. "Yeah, I refer to him as
23 'my partner.' I could just as easily say 'my brother.'
24 That's the feeling, but we're not technically partners
25 anymore.

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1 "What's the nature of your contacts with
2 Bernie?
3 "Meetings at his office. He never came to
4 ours. The only socializing we ever did with him was he
5 invited us to one of his son's bar mitzvahs, because his
6 father-in-law was there and we were still in practice
7 with him, so he had to invite us."
8 So you had meetings at Mr. Madoff's office?
9 A When -- when we met with him.
10 Q Do you recall other meetings that we have not
11 yet discussed today?
12 A I do not.
13 Q Okay. Now, let's go to page 33. Third
14 paragraph, you say, "From day to day, week to week, and
15 month to month, we would see the buys and the sells and
16 the profits and the few losses and how it was coming.
17 So we're not flying blind because, to be more exact, we
18 had it pinpointed every day when the transactions came
19 in. Oh, my heavens. Of course."
20 "And at the end of the month those
21 transactions were on a monthly statement and you just
22 analyzed that out and you tied it in. You balanced it
23 out. This was regular accounting work. You reconciled
24 the accounts. So that, we did.
25 "Oh, my. No. You just didn't put money in

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1 and take money back and send money out. That's
2 insanity. No."

3 So you were then keeping track of your
4 statements that you were receiving from Madoff?

5 A I personally wasn't.

6 Q Okay. You would see the buys and sells every
7 day?

8 A No, I would not.

9 Q Month to month?

10 A No.

11 Q Okay. Now, on page 38, the bottom, it says:
12 "Why didn't you just get yourself licensed?"

13 And the answer is, "Because you just can't do
14 that, because Bernie didn't want us to."

15 It's going on to the next page. Do you see
16 that?

17 A I see.

18 Q Did Bernie ever tell you he didn't want you to
19 be licensed?

20 A I told you, I think, earlier. I asked -- we
21 asked him at a meeting, Bernie, are we doing anything
22 wrong? Should we be licensed or something, or
23 regulated? And he said, "You're just taking money in
24 and sending it to me."

25 I said, "Yeah."

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1 in '93, because the SEC could have gone after us to
2 disgorge profits we shouldn't have made. And we were on
3 tenterhooks with that. And then I think in April the
4 phone rang and my wife screamed out, 'Michael, it's Ira
5 Sorkin.'"

6 "I said, 'Ira, how are you?'

7 "He says, 'listen, here's the thing. Here's
8 what it's going to be."

9 So Ira Sorkin was your lawyer with the SEC
10 matters?

11 A I believe he was the lead lawyer, yes.

12 Q Okay. Then he says, "Around that time, your
13 charitable giving from what I can tell picks up?"

14 And you say, "yes."

15 He says, "what was going on?"

16 "No, because we were able to get back to
17 Bernie and reinvest in our own name with the funds that
18 we had."

19 So is that what you're talking about Grosvenor
20 and Mayfair and the other funds?

21 A Yes, sir.

22 Q Okay. "How much did you have at that point?"
23 And you say, 50 -- and the question is: "Fifty million?"

24 And you say, "Oh, God, no. Not even half of
25 that. In '93."

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1 He says, "There's no need for it, then.
2 You're just another investment account with me. That's
3 all." I believe he went on to say, "I've spoken to and
4 I know the biggest lawyers on the street, and they say
5 it's A-okay."

6 We knew no one.

7 Q Okay. And you didn't question that?

8 A How could I? I had no knowledge.

9 Q Now, on page 44 --

10 A Yes.

11 Q -- it says: "The SEC ordered Madoff to
12 convert all of our funds into T-bills, treasuries,
13 safeties, all of it, which he did immediately. Then
14 they said, 'send it back to them in money to the
15 account' which the SEC controlled, okay? And we were
16 told to pay back the principal, plus the accrued
17 interest."

18 Do you remember that?

19 A Yes, I do.

20 Q And then it says you had about 3,200 clients?

21 A I would say that's about right.

22 Q Okay. Okay. Then it says, "What happens
23 next? You're out of business?"

24 You're saying, "We are out of business. And
25 we got the money back. And now we're sitting, waiting,

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1 Then it says: "And you start making a lot of
2 gifts at this point."

3 "We started slowly then. Not big. No. No.
4 No. We started slowly. We picked it up in the late
5 '90s. In the 21st century, we're really into it big
6 time, because we were adding on and not taking the money
7 from our account. We were letting it grow, grow, grow.

8 "Your investment with Bernie?

9 "Of course.

10 "So, approximately, how much do you got
11 investing with Bernie at that point, in '92?"

12 You said, "I don't remember. You know, it
13 could be \$15 million, it could be \$18 million,
14 \$17 million."

15 Is that your recollection --

16 MR. ETRA: Objection.

17 MR. SAMUELS: -- judging on what you have in
18 front of you?

19 BY MR. SAMUELS:

20 Q Is that your recollection of how much you had
21 invested with Bernie then?

22 A Pretty much.

23 Q Okay. On page 48 -- let's see. Let's
24 actually go to page 49, where it says, "But there are
25 all these people running around now talking, saying they

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1 were advised by Avellino or Mike Bienes to put their
2 money --"

3 You said, "If they called I said: 'Listen,
4 the only advice I can give you is call Bernie if you
5 want to get in. I don't know if he'll take you.'"

6 "Or call Michael Sullivan."

7 And then you say, "No, absolutely not."

8 "Why does that push a button?"

9 "Because it's not so, and that really bugs
10 me."

11 Then you say, "You got people saying they were
12 advised." And you say, "I don't care what people say.
13 They're lying."

14 Now, you testified earlier that there are a
15 few people who you sent over to Michael Sullivan,
16 correct?

17 A Yeah, two.

18 Q Okay. Only those two?

19 A Two.

20 Q As well -- and then the Judds testified that
21 they were sent over by you, as well?

22 A Absolutely not.

23 Q Okay.

24 A Son of a bitch.

25 Q So now we're talking about on North Federal

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1 BY MR. SAMUELS:

2 Q Well, when you're saying, "look guys, I'm
3 going to give you a word of advice: Do it right. Do it
4 right. Be precise," were you referring to his going to
5 do business with Madoff?

6 A I don't remember ever saying it to them.

7 Q Then you say, "Who introduced Sullivan, Powell
8 and Jacob to Bernie Madoff?"

9 And you say, "My partner must have. I
10 certainly didn't"; is that right?

11 A I said that.

12 Q And is that your understanding?

13 A Not now.

14 Q What is your understanding in terms of who
15 introduced Sullivan?

16 A You didn't need an introduction. You just had
17 to pick up the phone.

18 Q And where did you get that understanding from?

19 A From reading the list of 6,500 names that were
20 invested with Madoff, and all the banks and hedge funds
21 and everybody else. You didn't need an introduction.
22 Those people were not introduced, they called or wrote
23 or sent a carrier pigeon.

24 Q And how do you know how those people -- you
25 don't know how those people got to Madoff, right?

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1 Highway.

2 MR. WOODFIELD: What page?

3 MR. SAMUELS: Page 2950.

4 BY MR. SAMUELS:

5 Q You say, "Yeah, I met them quickly because
6 Avellino said to me, 'we're being audited by the IRS.'
7 I knew this was going to follow the SEC thing. It
8 always does. And I said, 'okay. We'll handle it.'"

9 "He says: 'Michael, I'd like Sullivan and
10 Powell to handle it.' They're too emotional -- "you're
11 too emotional."

12 "So I went up to their office and I met them,
13 and I saw the Bible and the crucifix and the lama ding
14 dong. And he says, 'You know, Frank really said it.'"

15 "I said: 'Look guys, I'm going to give you a
16 word of advice: Do it right. Do it right. Be precise.
17 If there's any question about who gets what, give it to
18 your client.'"

19 So at this point in time, after the SEC thing,
20 you were, in fact, aware that Sullivan was going to be
21 investing with Madoff, correct?

22 MR. ETRA: Objection to form.

23 THE WITNESS: I'm too confused. I don't
24 remember. I wasn't under oath and I was trying to
25 be cooperative.

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1 A No, I do not. I don't even know 95 percent of
2 them. I didn't think it through.

3 Q Okay. Now going on page 51. It says: "So
4 people that I'm talking to in the community say that
5 they were guided by you and your partner or friend --
6 you and your partner Frank to Sullivan are lying?"

7 And your answer is: "If they're saying I did,
8 they'd have to be. They'd have to be. Wait a minute.
9 No. I'll tell you. I was getting ready to leave for
10 London last year and the car was coming to take me to
11 the airport."

12 "And the guard comes to the door and he says,
13 'One of your neighbors would like to speak to you.' I
14 know her. She lives in the area. And she comes and
15 says, 'I don't want to bother you, but I know you know
16 about invest --' I said, 'look, I've told your husband I
17 don't want anything to do with this.'"

18 "So she says, 'no, no. Harry doesn't know
19 anything about this. I read that there's this firm that
20 handles money.'"

21 "And I said, 'who?'."

22 "And she said, 'Sullivan.'"

23 "I said, 'I know him. He's an upright man. I
24 know he's licensed; I think he's licensed, so you do
25 what you want.'"

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1 "She says, 'Oh.'
2 "I said, 'What are you looking to invest?
3 "She says, 'well, I have 20 million.'
4 "I said, 'Are you out of your mind? Are you
5 out of your total head? If you want to go with anybody,
6 you open very small. You open modestly. I mean, tiny.
7 You don't buy the whole pie.' I didn't take her over
8 there."
9 Who was that person you were referring to?
10 A Her last name was Acker, A-C-K-E-R.
11 Q And do you know if Acker ever invested with
12 Sullivan?
13 A I have no idea.
14 Q And did you contact Sullivan about Acker?
15 A Absolutely not.
16 Q And the question then goes on: "So you were
17 telling her to be careful with Sullivan?"
18 And you say, "Yes, very careful. But she
19 brought it up. She came to my door and rang the bell."
20 "Why were you telling her to be very careful
21 with Sullivan?"
22 A She said 20 million-dollars. She's a lunatic,
23 okay? I don't want to get involved with her because
24 she's offbeat, so is her crazy husband.
25 Q And what's her husband's name?

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1 A Harry.
2 Q Okay.
3 A Two nuts. They really were. She mentioned
4 Sullivan. I didn't. I just responded, and I was on my
5 way out the door.
6 Q And do you know if -- if there were management
7 fees indicated on the books and records of S&P or P&S or
8 any Sullivan entity, showing you getting a management
9 fee for Acker?
10 A I am not so aware.
11 Q Okay. Can you turn to Exhibit 36, the last
12 page. Do you see that?
13 A Yes.
14 Q What is -- what are both of their names,
15 Acker?
16 A Harry, and I knew her as A.J.
17 Q A.J., so -- is that the A. Acker?
18 A Could be.
19 Q Okay. And did you ever come to learn that you
20 were receiving commissions or management fees or monies
21 paid to charities that you were involved with, as a
22 result of Acker's investment in --
23 MR. ETRA: Objection.
24 THE WITNESS: No, absolutely not.
25

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1 BY MR. SAMUELS:
2 Q Did you ever at any time become aware of
3 whether or not Acker invested in S&P or P&S or Sullivan?
4 A I never was.
5 Q Okay. Now we're asking questions about -- now
6 I want to go back to your interview about Grosvenor.
7 A Grosvenor.
8 Q Grosvenor. Silent S.
9 A Correct.
10 Q Page 52: "When we went back with Madoff in
11 '93, went back in an account, partnership account, my
12 partner and I and the wives, of course."
13 "Bernie said, 'I'll let you back in, but I
14 don't want to see your name on the books.' So we had to
15 make up a name, Grosvenor."
16 Did Bernie say to you that he didn't want your
17 name on the books?
18 A Me, personally?
19 Q Uh-huh.
20 A Not that I can recollect.
21 Q How do you know that Bernie said that he'd let
22 you in, as long as your name wasn't on his books?
23 A I think Frank may have told me.
24 Q Do you recall discussing that with anybody at
25 Bernie Madoff's operation?

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1 A I discussed nothing at Bernie Madoff's
2 operation.
3 Q Then on page 54 -- on page 54, where it says,
4 "How many companies are we talking about, here?
5 It says: "Three. Grosvenor, Mayfair Ventures
6 and Mayfair Bookkeeping -- or Mayfair Pension Plan.
7 Those are the three accounts with Madoff."
8 Is that correct, that those are the three
9 accounts involved with Madoff?
10 A That's what I knew I was involved in.
11 Q Okay. Do you know why Madoff didn't want your
12 names on the books?
13 A No.
14 Q Did you ever discuss with Frank Avellino why
15 Madoff didn't want your names on the books?
16 A No.
17 Q Now, let's go to page 57. Why didn't you
18 discuss with Mr. Avellino why you couldn't have your
19 names on the books?
20 A I didn't think it was important.
21 Q Okay. Actually, on page 52, going back to 52,
22 I'll just read it to you. It says: "So why doesn't
23 Bernie want your name -- see your name?"
24 And you said, "I don't ask him. Oh, because
25 we screwed up. We were to blame. We were to blame."

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1 Is that your understanding?
2 A That was my thought --
3 Q Okay.
4 A -- not my knowledge.
5 Q All right. So now, at page 57: "How much
6 money have you given away to charity over the years?"
7 And your answer is, "I would say between 35
8 and 40 million."
9 A I see it now.
10 Q Is that accurate?
11 MR. ETRA: I apologize. I'm sorry. What
12 page?
13 MR. WOODFIELD: Fifty-seven.
14 MR. ETRA: Thanks.
15 THE WITNESS: Accurate to what degree?
16 BY MR. SAMUELS:
17 Q Well, 35 and 40 is a big range. Is that a
18 correct approximation of how much you gave to charity?
19 A As far as I can recollect, without saying
20 definitely, because I don't have the documents. It
21 could be less.
22 Q And then you're asked: "Prior to
23 December 11th, when Madoff was arrested, what was your
24 assumed net worth?"
25 And you say, "Over 70 million." Is that

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1 accurate?
2 A Within a range, fairly so, yeah.
3 Q And how much of your net worth was in -- was
4 with Madoff?
5 A Almost all.
6 Q And did you -- did you make any claims,
7 specific or otherwise, to get your money back?
8 A Yes, I did.
9 Q And have you received any money back?
10 A No, I haven't.
11 Q And what is happening with your claim?
12 A I don't know.
13 Q Is your claim being held up as a result of the
14 current lawsuit?
15 A I don't know.
16 Q Okay. And how much is your claim for?
17 A I don't know, because I don't have the
18 document. I don't know.
19 Q Okay.
20 A It was sizable, but that's it.
21 Q Okay. What's Telfran?
22 A To my knowledge, Telfran was a company that
23 was owned by a firm called -- accounting firm called
24 Glantz & Levy.
25 Q And did you do business with them?

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1 A You mean Ray Madoff?
2 Q Did you -- did you or any -- or Avellino &
3 Bienes or Grosvenor or any of those entities that you
4 invest in Madoff through do business with them?
5 A We may have, but since I didn't handle any
6 books and records, I could not tell you.
7 Q You, on page 70, say, "Let me tell you, in
8 '93, after settling out with the SEC, we asked for a
9 meeting at Bernie's office with Bernie, which took place
10 around 5:30 in the afternoon."
11 "Up at the Lipstick Building."
12 "The Lipstick Building. When I got there and
13 they showed us into the conference room, my partner and
14 his wife were sitting there and Bernie was sitting at
15 this --
16 "Frank and Nancy?"
17 You say, "Frank and Nancy at the same side of
18 the table, and Dianne and I sat down on the other side
19 of the table."
20 "Just the five of you?"
21 "Just the five of us."
22 And what do you recall about that meeting?
23 A That we had a meeting and that the table was
24 set up the way I said. I remember that Bernie was in a
25 short sleeve and was very relaxed in his chair. I

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1 remember that Frank and Bernie were talking about
2 setting up entities to go back with him on our own,
3 without any customers or anybody else. I remember that.
4 And I remember -- it was technical stuff. I
5 wasn't even following it, because I was seething. And
6 finally, it just popped out of my mouth. I told you
7 this.
8 Q Okay. Then on page 77, it says: "How many
9 years were you investing with him?"
10 Then you say, "Bernie, from the beginning.
11 About 35."
12 Is that accurate, that you invested with
13 Bernie Madoff for approximately 35 years?
14 A Approximately, yes.
15 Q Okay.
16 A It wouldn't be far off the mark.
17 Q Then you're asked, "Did you ever have a down
18 year?"
19 And the answer is, "Never. Not once"; is that
20 correct?
21 A That's correct.
22 Q Then on page 70 -- I'm sorry. Yes. Page 79,
23 when you're talking about Jerry Horowitz.
24 A Okay.
25 Q "He was Bernie's accountant. Saul Alpern once

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1 said, 'You know, I think we'll take the account back.'
2 Because Saul Alpern used to handle Bernie's accounting,
3 yes? He said, 'I'll handle Bernie,' right?

4 A I remember that happening. I remember Saul
5 saying that.

6 Q And then Bernie said, 'I'm not going back to
7 you. Jerry is my accountant.'

8 Then it says, you said to yourself, 'what's
9 with this old man? He can't be Bernie's accountant.
10 He's not independent. But Jerry was Bernie's accountant
11 and Jerry was a one-man show.'

12 Did that trouble you as a red flag that Madoff
13 used a small accounting firm?

14 A It did not trouble me. It was not a red flag,
15 because he was -- he was not a public company and did
16 not have to file quarterly statements with the SEC and
17 other regulatory agencies. To my knowledge, he didn't
18 have to file -- he didn't need to do, what I thought, a
19 certified statement. He could get by, maybe, with a
20 compilation. I don't know what the SEC would require
21 from him.

22 Apparently, it was okay because Jerry Horowitz
23 stayed there. For all I know, he may have had another
24 bigger firm doing year-end audit for the regulatory
25 agencies. I would not know.

1 A No.

2 Q You know that you're required to keep them
3 going back seven years?

4 A It is my understanding it's three years.

5 Q Okay. And who are the accountants for 56
6 Arlington?

7 A I would think Ahearn and Jasco.

8 Q So Ahearn and Jasco were also the accountants
9 for S&P an P&S and Sullivan? Do you know how S&P an P&S
10 got to them?

11 A I have absolutely no idea.

12 Q Okay. Take a look at Exhibit 23, please.
13 Exhibit 3 is a letter --

14 MR. WOODFIELD: Twenty-three.

15 MR. ETRA: Twenty-three or three?

16 MR. SAMUELS: I'm sorry 23 -- is a letter from
17 Helen Davis Chaitman. It says, 'Dear friend.' You
18 understand Helen Davis Chaitman is an attorney,
19 correct?

20 THE WITNESS: Yes, I do.

21 BY MR. SAMUELS:

22 Q Okay. And are you aware of the fact that she
23 represents Mayfair, an entity in which you are involved?

24 A I have no knowledge of that.

25 Q Has Helen Chaitman ever represented you, or

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1 Q Does he realize auditing is pretty labor
2 intensive and requires a lot of accounting?

3 A You could say that. Yes, it does.

4 Q Okay.

5 A There are other things that have changed it
6 over the years.

7 Q So you're saying here, on page 79: 'To me, I
8 was always wondering about it because I'll tell you
9 something, Martin: Auditing is a very labor-intensive
10 business. That's why all the accounting firms wanted to
11 get into consulting. It's just auditing is so labor
12 intensive, they can't make a profit. And I was always
13 wondering about Jerry doing this.'

14 Is that true, were you always wondering about
15 Jerry's ability to do an audit for a company like
16 Madoff's?

17 A Not really. I was just puffing.

18 Q Okay. Let's take a break.

19 VIDEOGRAPHER: Off the record at 4:11 p.m.
20 (Thereupon, a recess was taken from 4:11 p.m.
21 to 4:33 p.m.)

22 VIDEOGRAPHER: Back on the record at 4:33 p.m.

23 BY MR. SAMUELS:

24 Q Okay. Come back to 56 Arlington for a moment.
25 Do you have the tax returns going back seven years?

1 any entity in which you have a direct or indirect
2 interest, to your knowledge?

3 A Not to my knowledge.

4 Q Okay. Do you know if she is trying to receive
5 funds from SIPC on behalf of Mayfair?

6 A Sir, this is the first I've ever heard of
7 this.

8 Q Do you know -- who is your lawyer? Strike
9 that.

10 Who is the lawyer for Grosvenor Partners, in
11 connection with their SIPC claim?

12 A I don't know.

13 Q How about Mayfair, do you know?

14 A I do not know.

15 Q How about St. James, do you know?

16 A I do know that I have no lawyer.

17 Q Okay. Has St. James made a SIPC claim?

18 A Yes, it has.

19 Q Without counsel?

20 A Without counsel.

21 Q And by the way, at the time you made the
22 statement to -- that we just spent a lot of time going
23 over, with FRONTLINE, were you represented by counsel at
24 that time?

25 A Yes.

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1 Q Okay. So you knew that -- you went to that
2 statement voluntarily? Nobody forced you to do it,
3 right?
4 A The interview with FRONTLINE?
5 Q Uh-huh.
6 A Definitely voluntarily.
7 Q Okay. All right. And like I said earlier,
8 back at the time of the interview, the action
9 surrounding Madoff and your investments with Madoff and
10 your history with Madoff, were more recent in your mind
11 than they were today, correct?
12 MR. ETRA: Objection.
13 THE WITNESS: I would surmise. That's the
14 best I could say.
15 BY MR. SAMUELS:
16 Q Okay. Have you ever seen what's been marked
17 as Exhibit 23?
18 A Yes.
19 Q And when did you see this?
20 A Yesterday.
21 Q Have you ever seen it prior to yesterday?
22 A No.
23 Q Okay. Now, I want to talk to you about
24 Jeffrey Picower. You know him, correct?
25 A Yes, sir.

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1 Q In fact, is he related to your ex-wife?
2 A Jeffrey Picower is my -- was my ex-wife's
3 brother, younger brother.
4 Q And what was your ex-wife's name?
5 A Emily.
6 Q And were you married to Emily in 1992, when
7 you were going through the SEC issues?
8 A Oh, no.
9 Q Okay. Have you heard allegations that it is
10 Jeffrey Picower who provided the funding, to enable the
11 investors in Avellino & Bienes to receive a return of
12 all their principal and interest?
13 A Yes.
14 Q Okay. And is that -- are those allegations
15 true?
16 A I have no idea.
17 Q Have you ever discussed them with Mr. Picower?
18 A I heard those allegations for the first time
19 yesterday.
20 Q Okay.
21 A So I could not discuss it with Mr. Picower,
22 nor do I have any wanting to do so.
23 Q How many years were you married to Emily? How
24 many years was Mr. Picower actually your brother-in-law?
25 A Approximately, sir, approximately, 14 years.

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1 Q And were you living in New York at the time?
2 A No.
3 Q You were living in Florida?
4 A No. I was living on Long Island.
5 Q Okay. And was Mr. Picower affiliated in any
6 way with Mr. Madoff or his office, during that 14-year
7 period?
8 A I would have no idea.
9 Q You didn't know what he did, even though he
10 was your brother-in-law?
11 A I knew he was a CPA and an attorney. That, I
12 knew. He had a master's degree and an LLM. He was
13 brilliant.
14 I knew he went to work for a rather large New
15 York accounting firm. I think -- please don't hold me
16 to this -- Horwath & Horwath, maybe. Something of a
17 medium size, not one of the majors. That, I knew.
18 Q Okay. And did you ever at any time, including
19 up through today, learn of Mr. Picower's affiliation or
20 association with Madoff or Madoff's firm?
21 A After the collapse of Madoff, I read a lot
22 about Jeffrey Picower.
23 Q What did you read about?
24 A That he was -- this was -- that he was very
25 successful.

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1 Q Where did you read about him in connection
2 with Madoff?
3 A In the press.
4 Q Right. What did you read about him in the
5 press, in connection with Madoff?
6 A That he was a friend and he had a \$900 million
7 foundation invested with Madoff.
8 Q Were you involved in his decision to have that
9 investment?
10 A When Jeffrey Picower died, in 2009, in the
11 press, both his widow and his lawyer stated: We haven't
12 seen the Bienes or had any contact with them for 32
13 years, and that is a true statement. I knew nothing
14 about Jeffrey or his activities.
15 MR. SAMUELS: What number are we on?
16 MR. WOODFIELD: Thirty-eight would be next.
17 (Plaintiffs' Exhibit No. 38 was marked for
18 identification.)
19 BY MR. SAMUELS:
20 Q This is an article in the New Times called
21 "The House That Madoff Money Built."
22 A Uh-huh.
23 Q Have you ever seen this article?
24 A Not that I can remember.
25 Q In the second paragraph, it says, "You have to

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1 look at how Fort Lauderdale's Michael Bienes lived." Do
2 you see that?
3 A Uh-huh.
4 Q "I've written a lot about the philanthropist
5 who claims he too has been ruined by the Madoff scandal,
6 who was shut down by the SEC after he and partner Frank
7 Avellino raised \$441 million for Madoff without
8 securities licenses," but that just -- "but he just
9 turned around and put all those same investors back in
10 with Madoff and retained the ties with the Ponzi schemer
11 extraordinaire."

12 Do you agree with Mr. Norman's assessment that
13 you turned around and put all the same investors back in
14 with Madoff?

15 MR. ETRA: Objection.

16 THE WITNESS: Not only do I disagree, he's a
17 goddamn liar.

18 BY MR. SAMUELS:

19 Q And it talks about the house being a -- did
20 you -- did you hire architects Ed Baywaters and Charles
21 Duemmling, to design a 10,000 square-foot party house
22 that was completed in 1991?

23 A I believe we did, yes.

24 Q Okay. And did you sell the house?

25 A It was sold.

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1 Q Okay. Was it sold at a foreclosure or --

2 A Yes. Oh, no. No. Excuse me. I don't know
3 how it was sold. That was done through the bank. The
4 bank handled it all. We had no say.

5 Q Were there foreclosure proceedings brought
6 against you?

7 A I don't know. I don't remember them. I think
8 we left the house and turned over the keys.

9 Q Okay. Going to page 3 of 6, it talks about,
10 "Malcom Farrell, president for Philharmonics Board of
11 Trustees introduced Bienes, who introduced the
12 musicians. And of course, he had to rib his pal, Judd,
13 first: 'Listen, don't shoot the pianist if he's no
14 good,' he said. 'He's doing the best he can.'"

15 "But then he told how just four days before,
16 in St. James Palace, in London, Judd had conducted the
17 English Chamber Orchestra before an audience that
18 included Prince Charles. It included the Bienes, too.
19 They saw and heard the whole thing."

20 Do you remember that?

21 MR. ETRA: Objection.

22 THE WITNESS: Do I remember going to St. James
23 Palace?

24 MR. SAMUELS: Yes.

25 THE WITNESS: For a concert?

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1 MR. SAMUELS: With Prince Charles.

2 THE WITNESS: With Prince Charles conducted by
3 James Judd?

4 MR. SAMUELS: Yes.

5 THE WITNESS: Yes, sir. I do remember that.

6 BY MR. SAMUELS:

7 Q Okay. And this article also talks about James
8 and Valerie Judd. You were very close with them
9 socially, weren't you?

10 A No. We were friends.

11 Q Okay. There's a January 10th, 1995 Miami
12 Harold article on page 4 of 6 that mentions you. Talks
13 about "Millionaire philanthropist, Michael and Dianne
14 Bienes, hosting another one of their dinner parties in
15 their lavish Fort Lauderdale home, December 12th. This
16 one was for Grace Kelly biographer, Robert Lacey and
17 county literary luminaires."

18 "The guests were relaxing over coffee and
19 desert, discussing a project the Broward Public Library
20 Foundation was revving up to complete: A rare books and
21 special collections room in the main library in Fort
22 Lauderdale.

23 "'How much money do you need?' asked Michael
24 Bienes.

25 "'One million dollars,' said Kay Harvey, the

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1 foundation director.

2 "The group held its collective breath. After
3 a moment, Bienes responded, 'Okay. You've got it.'"

4 Do you remember that?

5 MR. ETRA: Objection.

6 THE WITNESS: I remember the dinner. I
7 remember Kay Harvey and Robert Lacey being there.
8 I remember Sam Morrison, the then library director
9 being there. But it did not happen that way.

10 BY MR. SAMUELS:

11 Q Do you remember committing to give a million
12 dollars?

13 A At the end, yes, I do. I made that
14 commitment.

15 Q Okay. We have no further questions right now.
16 In light of what we've heard today about the e-mails and
17 the computer, we're keeping this deposition open.

18 MR. ETRA: I don't know what you're talking
19 about. The deposition is closed in my view.

20 MR. SAMUELS: What I'm talking about is the
21 fact that the e-mails have continued to be deleted.

22 MR. ETRA: We disagree.

23 MR. SAMUELS: Well, that's what the testimony
24 is.

25 MR. ETRA: We disagree.

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1 MR. SAMUELS: Well, that's fine. The judge
2 will decide.
3 MR. WOODFIELD: As always, it's been a
4 pleasure, gentlemen. Thank you.
5 (Discussion held off the record.)
6 VIDEOGRAPHER: Concluding today's deposition.
7 We are off the record at 4:50 p.m.
8 COURT REPORTER: Order instructions for the
9 record?
10 MR. ETRA: We're reading.
11 MR. SAMUELS: We'll take copy.
12 COURT REPORTER: Copies?
13 MR. ETRA: Yes.
14 COURT REPORTER: Sir, copy?
15 MR. WOODFIELD: Yes.
16 (Witness excused.)
17 (Deposition was adjourned at 4:50 p.m.)
18
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1 CERTIFICATE
2 THE STATE OF FLORIDA
3 COUNTY OF BROWARD
4

5 I, Gabrielle Cardarelli, Florida Professional
6 Reporter and Notary Public in and for the State of
7 Florida at large, do hereby certify that I was
8 authorized to and did report said deposition in
9 stenotype; and that the foregoing pages are a true
10 and correct transcription of my shorthand notes of
11 said deposition.

12 I further certify that said deposition was
13 taken at the time and place hereinabove set forth and
14 that the taking of said deposition was commenced and
15 completed as hereinabove set out.

16 I further certify that I am not attorney or
17 counsel of any of the parties, nor am I a relative or
18 employee of any attorney or counsel of party connected
19 with the action, nor am I financially interested in the
20 action.

21 The foregoing certification of this transcript
22 does not apply to any reproduction of the same by any
23 means, unless under the direct control and/or direction
24 of the certifying reporter.

25 Dated this 25th day of September, 2015.




Gabrielle Cardarelli, RPR, FPR

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1 CERTIFICATE OF OATH
2 THE STATE OF FLORIDA
3 COUNTY OF BROWARD
4

5 I, the undersigned authority, certify that
6 MICHAEL BIENES personally appeared before me and was
7 duly sworn.
8
9

10 Dated this 10th day of September, 2015.
11
12
13
14

15  
16 Gabrielle Cardarelli, RPR, FPR
17 Notary Public - State of Florida
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1 DEPOSITION ERRATA SHEET
2

3 Our Assignment No. 22282
4 Case Caption: P&S Associates v. Michael D. Sullivan
5

6 DECLARATION UNDER PENALTY OF PERJURY

7 I declare under penalty of perjury that I have read
8 the entire transcript of my Deposition taken in the
9 captioned matter or the same has been read to me, and
10 the same is true and accurate, save and except for
11 changes and/or corrections, if any, as indicated by me
12 on the DEPOSITION ERRATA SHEET hereof, with the
13 understanding that I offer these changes as if still
14 under oath.

15 Signed on the _____ day of _____, 20____.

16
17
18 MICHAEL BIENES
19
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25

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MICHAEL BIENES

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